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GULIELMI DE OCKHAM
EPISTOLA AD FRATRES MINORES

Ockham, William, d. ca. 1347

GULIELMI DE OCKHAM
EPISTOLA AD FRATRES MINORES

^{W. B.} Edited with Notes and Introduction by
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P R E F A C E

THE present text made in part its first appearance in an essay by Dr Carl Müller, who published a third of it in the *Zeitschrift f. Kirchengeschichte* (vi Band, erstes Heft, dated 30 April, 1883, and now out of print). In 1926 in the April-June number of the *Revue d'Histoire Franciscaine* (pp. 185-201 and 201-215) M. Léon Baudry produced the whole of the text, together with a brief though excellent introduction. My own preparation of a complete text was finished some time before M. Baudry published his, and no doubt it would have appeared about the same time, had it not been clear to me from the beginning that the parts omitted by Müller required notes explaining, or at any rate attempting to explain, Ockham at his hardest. M. Baudry has added footnotes to his text, which give for the most part a bare reference to the other works of Ockham, whereas this edition has emphasized rather the Bulls of John xxii. Neither M. Baudry nor myself have had room enough to deal adequately with Michael Cesena. Indeed, much material has been excluded from the notes, but at some future date I hope to discuss the problem more fully, according as time and opportunity permit, without the encumbrance of a Latin text.

I have to thank the Director of the Bibliothèque Nationale in Paris for allowing me to examine the ms. and to obtain rotographs of the parts required for the preparation of the text; and as this work has been the product of odd moments in a busy life, I am grateful to Dr Cowley, Librarian at Bodley, for furthering my researches with helpful courtesy.

PREFACE

For advice and criticism in the preparation of this edition my thanks are due to Professor C. Foligno: Mr C. W. Previté-Orton gave me several useful suggestions for the text: and I have also to thank Dr J. P. Naish for help with the proof-sheets and Mr T. C. Gambier-Parry for a useful note on the manufacture of mediaeval paper.

Lastly, I am indebted to Mr Basil Blackwell for his patience in seeing these pages through the press.

C. K. B.

Birmingham, April, 1929.

EPISTOLA AD FRATRES MINORES

INTRODUCTION

IN his teaching through the streets of Narbonne in 1321 an obscure Beghard had declared that Christ in His earthly life had been absolutely poor. As the Beghard was himself living as he taught, no remark could have been more natural, but his dangerous sincerity was rewarded with imprisonment. While on trial for heresy before the archbishop of Narbonne and a certain Dominican inquisitor, the Beghard reasserted his opinion, that Christ and the Apostles, in showing the way of perfection, had possessed nothing by proprietary right, either individually or in common. The archbishop was at a loss to solve this problem by himself, so he invited the learned men of the district to come and give their advice, and among them Berengarius Taloni, the reader in sacred theology at the Franciscan convent. Berengarius, when it was his turn to speak, defended the Beghard's opinion as being not only true, but Catholic, as defined by the Bull 'exiit' of 1272. The court requested the withdrawal of this statement, and Berengarius refused to comply.

The novelty of the Beghard's remark was now as nothing in comparison with Berengarius' implied suggestion that the Church had already acquitted the Beghard of heresy. Indeed, if Berengarius was right, the charge against the Beghard was without foundation. The case therefore went to Avignon: so did Brother Berengarius, but not so quickly as the Dominican inquisitor.

At the Curia it was now evident that the Franciscan

and Dominican Orders were the high contesting parties in this quarrel. It was equally clear that the appearance of favouritism would be fatal to an agreeable solution of the difficulty. An open and candid discussion was essential, and this was precisely what the terms of the Bull 'exiit' forbade. Pope John xxii therefore revoked the Bull for the time being, withdrew to the background, and left Cardinal Napoleon Orsini to make the necessary arrangements.

It was easy enough to open the debate, but not so easy to conclude it. Someone endowed with adequate sympathy towards both Orders might hope to reconcile them, but he would have to combine with his sympathy sufficient personal authority to save the pope from delivering his own opinion. Who among the eminent scholars of the day possessed the requisite character and experience?

Fortunately for Cardinal Napoleon, a few weeks before Easter, 1322, the gap was filled by Ubertino of Casale, once a Franciscan Friar, now a member of the Order of Saint Benedict. His argument was twofold. There were, he said, two ways of holding property, the one by imperial law, the other by natural law, the one explained by Saint Peter in Matth. 19. v. 27, 'Behold, we have forsaken all,' and the other explained by Saint Paul, 1 Tim. 6. v. 8, 'And having food and raiment let us be therewith content:' the Dominicans had emphasized the former at the expense of the latter, while the Franciscans had emphasized the latter at the expense of the former: thus, according to imperial law, Christ did not possess property, and it was heresy to say that He

did, whereas, according to natural law, Christ did possess property, and it was heresy to say that he did not. The two Orders were delighted with this answer, and no one more so than John xxii, who expressed his hope that the matter so successfully concluded would never trouble any of them again.

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QUITE on the contrary, however, the quarrel was far from ended. It was in fact merely beginning, for one man had been left out of account, Michael of Cesena, minister-general of the Franciscan Order. Invited among others to express his opinion, he had preferred to wait a few weeks longer till Whitsuntide 1322, so that the general chapter might be consulted. From Perugia, where the chapter met, Michael reported their unanimous decision, that it was heresy as defined by the Bull 'exiit' to say that Christ and the Apostles ever possessed anything either individually or in common: and Michael added that what the Church had once established ought to remain in force. But the pope as head of the Church could not accept this doctrine from the hands of a friar however distinguished. Moreover, John xxii did not believe it. No pope could have believed it, for it involved the very negation of ecclesiastical establishment. So the Bull 'exiit,' withdrawn at first for the sake of discussion, was permanently rescinded in December by the Bull 'ad conditorem.' No longer could the Franciscans claim, what Nicholas iii had granted them, the mere use of property invested in the Holy See, and while they resented, as an act of treachery, the loss of

privileges enjoyed for half a century, the quarrel continued in a spirit of bitterness and recrimination.

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NOW the political side of the controversy between 1322 and 1329 is reflected, as will appear later, in the writings of John xxii and of Michael and his friend Bonagratia, but their deeds and sayings, when we come to them, will convey but little, if they are considered apart from the ideas behind them. The controversy was not one of mere words, though the reader might be excused for thinking so. Some attempt must be made to distinguish between what they said and what they meant. Particularly in theological disputes the whitest heat of passion is reached when the contesting parties appear almost on the point of agreement. Perhaps we shall find John xxii and Michael in the negative aspect of the case no exception to this rule, for what they deny is the same, but with a profoundly different meaning.

The general features of the case are not altogether to be ignored. Throughout the middle ages men believed that poverty was an act of God, an inevitable doom, as incurable as disease. The sixteenth century began to part company with this theory, and in doing so, without intending it, paid a compliment to the social workers of the middle ages. They were braver than they were thought to be. Their heroism, though it does not solve our problem, leads us at least to respect the vitality of their ideas.

Indeed, without some latent strength the Order of Saint Francis could not have survived the blow. The

single Bull of 1272 was sufficient to satisfy the Order for half a century. Within seven years John xxii had published four Bulls, and the Order was still unsatisfied. Why not abolish the offending Order and have done with it? Was there no king in need of ready money? It is true that only a few years before the Templars had been sacrificed, but the Franciscans were saved by their twofold tradition of practical effort and organization. The Franciscans were far more ready for a struggle than the Lollards of a later day. They knew what to do and how to do it, but what they said does not seem to tell us where precisely John and Michael disagreed. We must leave the Franciscans for a moment and give our attention to the pope. The answer to our question lies in his change of attitude.

The very beginning of the quarrel was doctrinal, but the pope at first was careful to say nothing about doctrine himself. His first Bull to deal with the problem in 1322 was purely one of discipline: in the Bull of 1329, the last of the four, he deals solely with doctrine. First of all he censures the Order for failing to live up to its ideal: last of all he condemns the Order for following and defending its ideal. Clearly, from the pope's point of view, there must have been something at fault either in the ideal itself, or in Michael's conception of it. Every thing depended upon what is understood by the term poverty. But as Michael and the pope fail to give us a clear definition, we can only infer their meaning from their attitude towards it. The question is one of poverty, in particular the poverty of Christ, which the Franciscans were pledged to follow. When we say that evan-

gelical poverty reached its highest point in Christ and the Apostles, do we mean that Christ abrogated His right to possess, or that He reduced His possessions to a vanishing point, or have we some other explanation? Is there in fact any connexion between theology and economics? The pope denied that there was. Michael denied that there was. The reasons for this apparent paradox can be explained only by the attitude of each as derived from experience.

What Pope John xxii thought about poverty he discussed in his Bulls: what he knew about it is another matter. He leaves us with the impression that he was completely victorious, perhaps in our opinion deservedly victorious, now that our conception of poverty has altered so much since the middle ages. In one or other of his Bulls he defeats the arguments of Michael with every known and appropriate citation from the world of Scholarship—exegesis, law, logic, physics, philosophy, theology—anything and everything that was contained between the outer covers of a book. But the problem was rather of life than of learning. The Franciscans were foolish to defend themselves with the weapon of their adversary, as their great founder could have told them, for he sent them to work among the men and women of the slums, where for most of them the answer to the prayer for daily bread was by no means a foregone conclusion. The pope had looked at this problem from within and Michael from without. To the pope the poverty of Christ was subjective, existing only in His attitude towards the world, a passive indifference to earthly considerations: to Michael it was objective, external, an ac-

tive avoidance of the world around by every effort of the will.

We must now turn from the general to the particular and discuss the work of Ockham and his influence upon this problem.

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THIS work is the last of four contained in ms. Paris Bibl. Nat. Lat. 3387 (Colbert 731, Royal 4273), xivth century, parchment, 265 folios each $11\frac{7}{10}$ by $8\frac{1}{2}$ inches, writing in two columns each approximately $8\frac{2}{3}$ by $2\frac{1}{2}$ inches. The manuscript is devoted entirely to the works of William of Ockham.

The other works are as follows: (a) fol. 1 recto-163 verso, the well known *Opus Nonaginta Dierum*: and with it, fol. 164 recto-172 recto, a summary of the same, together with fol. 172 recto-175 recto, an alphabetical list of contents: (b) fol. 175 recto-213 verso, a treatise against John xxii beginning *Non invenit locum poenitentiae*: (c) fol. 214 verso-262 recto, a treatise against Benedict xii in seven books beginning *Ambulavit et ambulat*: and lastly (d) this letter to the friars at Assisi, beginning at the top of column *a* on fol. 262 verso, and with red and blue capitals and paragraph marks continuing to fol. 265 recto, four lines down column *b*: date of composition Whitsuntide 1334.

This *epistola* falls roughly into two parts: (a) several series of errors attributed by Ockham to Pope John xxii relating to evangelical poverty and to the Beatific Vision, and (b) three narrative portions to be found in lines 1-27, 187-231, 393-end.

Taken together, however, the narrative and critical

portions of this *epistola* are shorter than any other work of Ockham upon the purely theological errors of John xxii. Its date of publication—15 May 1334—includes it without question among his earliest works on contemporary affairs. The inception of these works could hardly have occurred before the end of 1329, when the withdrawal of the emperor from Pisa to Munich, and the publication of the *Quia vir reprobus* provided Ockham at once with opportunity, stimulus and material. Intended to silence Michael of Cesena once and for all, this papal *libellus* served only to galvanize Ockham into eighteen years of activity. The first period 1330-34 was a mere prelude to the years that followed: yet it produced, according to Scholz: (*Unbekannte Kirchenpolitische Streitschriften*, Rome, 1914, vol. 1, p. 149 sqq.):

- (1) the *Opus nonaginta dierum* or *Work of Ninety Days*, dated by Riezler 1330-33:
- (2) an anonymous tract beginning *Quoniam scriptura testante*, edited by Preger, pp. 76-82 in the *Historische Abhandlungen*, München, vol. xv, 1880, dated by him 1331, and accepted by Knotte as the genuine work of Ockham (see his doctorate dissertation at Bonn, 1903, 'Untersuchungen zur Chronologie von Schriften der Minoriten am Hofe Kaiser Ludwigs des Bayern'):
- (3) the *Tractatus de dogmatibus Johannis xxii papae*, written after 3 January 1334, when John xxii withdrew tentatively his opinions regarding the Beatific Vision, and known after 1343 to have been included as Part II of the *Dialogus*:
- (4) Part I of the *Dialogus*, dated by Riezler 1342:

(5) this *epistola*, written before 15 May 1334.

For the exclusion of the second and fourth works from the list there is much to be said. Though it would be a mistake to be too positive, the second has little resemblance to any genuine work of Ockham, while the fourth, reflecting as it does many events between 1330-34, none the less indicates a stage of intellectual interest and development not likely to have been reached before 1338. These two suggestions may be regarded from the following points of view.

According to Knotte, Ockham's authorship may be based in general upon a similarity of content with his other works and in particular upon the single though striking statement relating to Christ as the Lord of this world. Knotte is quite certain at any rate that this sardonic innuendo is from Ockham rather than from Michael of Cesena. But it may be urged that the opinions of the Minorites in Munich were no secret after 1330, and that any clerk or scribe could have borrowed them himself for the asking. The tract *Quoniam scriptura* is throughout a dull and pedestrian effusion. The worst mannerisms and the best phrases of the master are lacking, and in their place we find tactful suggestions of peace between Lewis of Bavaria and the Pope, citations of the Bull which is alleged to have separated Italy from the empire, a list of place-names, and on every occasion a reference to plain James without pontifical title. But Ockham at this time had no interest in peace, politics or geography, and if ever he used the weapon of insult it was with hatred rather than vulgarity.

Nor again can the first part of the *Dialogus* be placed

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with confidence as early as 1334, while the lateness of 1342 is doubtless equally unacceptable. Although the method of question and answer is maintained in both Part I and Part III, the sectional arrangements differ, and often enough the latter is at pains to prove what has already been accepted in the former. But quite apart from these considerations the first part of the *Dialogus* has a political atmosphere, pursues a philosophical method and aims at a non-personal discussion of abstract questions.

On the other hand in 1334 Ockham's mind was obsessed with one idea—to prove that John xxii was a heretic in having condemned the doctrine of evangelical poverty as taught by Michael of Cesena, minister general of the Franciscan Order. His proof was the series of sermons preached by John xxii upon the question of the Beatific Vision. Upon the former he wrote the *Opus Nonaginta Dierum*, upon the latter the *De dogmatibus*, within the first half of 1334.

The effort required for this colossal production created a mood that lasted for years, so that Ockham could continue to think only in one groove. After the death of John xxii on 4 December 1334 the *Non invenit locum*, the *Tractatus ostendens* and the *Compendium errorum* followed in quick succession, each directed against a specific pope for definitely erroneous statements. When the political crisis arose at Rense and Coblenz in 1338, his works take on a political aspect, but even in the last chapters of the eighth question in the *Octo Quaestionum Responsiones* Ockham could not tear himself from the worn-out thesis of evangelical poverty. Unlike Mar-

siglio, Ockham passed through an evolution of ideas. His first step was taken when he attacked the heresies of John XXI, the second when he decided that Benedict XII was equally in error, the third when he enquired whether the fault lay, not with this pope or that, but with the papacy itself. The acceptance of 1334 as the date when Ockham published the first part of the *Dialogus* is psychologically unsound, for it differs as much from the *Opus Nonaginta Dierum* as *Hamlet* from *Love's Labour's Lost*.

It now remains to discuss the *Opus Nonaginta Dierum* and the *De Dogmatibus* in their relation to this *epistola*. Did the publication of either or both occur before April 1334, when this *epistola* must be presumed to have been despatched in time to reach Assisi in May? No definite answer can be given to the question, but certain facts stand clear enough to indicate a working hypothesis.

A citation of some earlier works seems to be suggested in line 42: 'sicut in aliis allegationibus aperte probatur,' and similarly in line 114. But at lines 216 and 223 we have definite references to the *Appeal* of Michael of Cesena: probably the greater *Appeal* of September 1328 is meant. Again, his reliance on the opinions of others is clear at line 396: 'est enim mihi per viros literaturae egregiae evidenter ostensum,' proving that the pope, already guilty of heresy and deprived of the papacy, was to be considered excommunicate *ipso iure absque omni nova sententia*. Immediately following this statement appear the words in line 403, 'ad quae probanda plura volumina sunt edita.' By whom? Certainly not by Ockham, for he continues without a break, 'et ego . . . de

tenuitate ingenii *mei* . . . scripsi manu *mea*.' Nothing could be more emphatic. Almost certainly the *volumina* of line 403 are the published writings of Michael, Bonagratia and others up to 1334; and probably include the *allegationes* of lines 42 and 114. Again, in the passage 403-407, 'scripsi . . . et adhuc habeo scribere,' the note of modernity persists. Ockham does not say that he has published what he has written; he merely emphasizes the fact that he is still writing. At line 11, and afterwards at line 465, he expects to be known by contemporaries, not for his authorship, but for his enforced detention at Avignon. When he does use the word *publicavi* it is at the end of the enormous *Opus Nonaginta Dierum*, where he tells us that he had discussed with care the opinions of the pope and of his opponents, and that he claimed the gratitude of both parties: and from this we may surmise that Ockham had faced the alternative of remaining silent.

From another point of view the passage may be examined: 'On the subject of these errors and heresies, so far as my slender powers permit, I myself have written with my own hand fifty *sexterni* of ordinary sized paper and have still forty to write and more.' Now a *sexternus* is a group of six sheets folded down the centre so as to form a little book of 12 folios or 24 modern pages. Upon 90 of these *sexterni* or quires, forming 2,160 pages, it would have been possible without inconvenience to write the complete works of Shakespeare. The suggestion therefore is ridiculous, even for the complete works of Ockham, even for the paper destroyed in making his drafts. Can he be boasting that he used 90 plain sheets

of paper *de communi forma* (line 406), that is 180 folios? The *Opus Nonaginta Dierum* in the same MS. as this *epistola* occupies 163 folios: the *De Dogmatibus* would occupy in proportion 19 folios: total 182 folios. The statement that he had forty and more to write argues in favour of a draft or plan of the remaining work. If this is true, the estimate on these lines was remarkably accurate.

It would seem, then, that we are dealing with a half-finished 'Work of Ninety Days.' It has always been assumed that the title of this work indicated the length of time spent in its composition. Printed like our present text, it would occupy a thousand pages. It is hard to believe that he composed within three months from start to finish this gigantic kaleidoscope of syllogisms. Almost certainly parts of it were thought out two years before. It is the final copy that is suggested here, *manu mea*, the last act of an author intending to publish: and if Ockham hoped to complete the task, let us say, between 3 February, when he probably heard of the pope's retraction, and 3 May, just before the meeting of the chapter at Assisi, we have an explanation. On the other hand Ockham boasts not of the time, but of the bulk of his work, of his *Opus Nonaginta Sexternorum*. We have seen that the word *sexternus* has little bearing on the question. Ockham is not likely to have prepared his *exemplar*, his final copy, on much less paper than the copyist of ms. 3387. It would be strange indeed if his work at the time received its name from ninety sheets of paper, though the title as we know it appears in the last paragraph of the book.

To conclude, it would seem that in 1334 Ockham was completing (1) his *Opus Nonaginta Dierum*, a long discussion upon the four Bulls of John xxii relating to evangelical poverty, and (2) his *De Dogmatibus*, a refutation of John's sermons on the Beatific Vision. This *epistola* deals exclusively and quite comprehensively with both, that is, with the *constitutiones et sermones eiusdem* (line 429).

Having finished little more than half the former, and the rest of it with the *De Dogmatibus* in draft, and wishing to keep the Franciscans at Assisi true to the policy of Michael their late minister-general, he wrote this *epistola* pointing out the vital weaknesses in the doctrines of the pope and assuring them of a longer explanation anon.

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WHO then, it may be asked, was this William of Ockham, that he should write to the Brothers at Assisi while the true minister-general was living: and what were his qualifications for the task? The answer is clearly, that in 1334 the question would not have been asked: 'noveritis itaque et cuncti noverint Christiani' (line 11). Everyone knew about him. He was educated at Oxford where he published his thesis for the degree of B.D., a treatise on the *Sentences* of Peter Lombard, and an additional tract consisting of some *Quodlibeta* on theology. The year previous John xxii had canonized the philosopher Thomas Aquinas, whose pre-eminence among churchmen the passage of centuries has served only to enhance. Against this very fibre of the Church's doctrine Ockham launched his attack. Heresy of this kind had

appeared at Oxford not long before, and John xxii was determined to crush it without delay. Ockham was removed to Avignon, where his trial could be arranged under the eye of the pope himself.

The fifty-one points of error in the *Sentences* and the *Quodlibeta* that the six judges discovered and condemned are of less importance than the fact that only men of distinction were chosen to try him. A copy of the final report, made by Richard of London, and now ms. Vat. Lat. 3075 fol. 1-5, was edited by M. Auguste Pelzer in the April number of the *Revue d'histoire ecclesiastique*, 1922. The names of the judges are given in the first and last paragraphs. John Lutterell, ex-chancellor of Oxford, was one of them: Gregory, bishop of Belluno-Feltre, and John, afterwards bishop of Anagni, were Austin friars; while the Dominican inquisitors were Raymond, patriarch of Jerusalem, Dominic, bishop of Pamiers, and the philosopher Durandus, bishop of Meaux. Lutterell's return to England in 1325 was demanded by Edward 11, but the pope persuaded the king to allow him to remain at Avignon, where he was helping to root out a pestilential heresy in the presence of the pontiff himself. In personnel, therefore, the board of inquisitors was substantial, though not Franciscan.

The trial, prepared in 1324, took place in 1326. Ockham survived it. If the trial was a test case for the exclusive reception of Aquinas in the universities, it was important. Ockham was excommunicated on 8 June 1328, but only for departing from Avignon without permission. If the trial savoured of sensationalism, it was pardonable on his part to expect the world to know

of it (line 11). Certainly the strife in the Curia (*brigam*, line 467) was great: and he tells us that in his four years at Avignon he learned as much about the high contesting parties from personal experience as he would have done in forty years of continual conversation elsewhere.

Before Ockham left Oxford the quarrel between Michael of Cesena and the pope had reached its climax. Bonagratia, the procurator of the Order, a brilliant lawyer, was already in the papal prison at Avignon. Ockham was too full of philosophical speculations to pay any attention to the three Bulls of John XXII. As he tells us (lines 13-17), he did not imagine that the head of the Church, who had ordered his trial for heresy, was at the same time both pope and heretic. He therefore ignored those three Bulls, until one day in April 1328 Michael was incarcerated with him. Ockham then studied the three Bulls, 'ex occasione data superiori mandante' (line 18). Who better to instruct him than Michael of Cesena, who as minister-general of the Order had published the letter of the general chapter at Perugia in 1322, bringing down upon the Order the Bull 'ad conditorem,' that wrecked the legal relations between the Order and the Holy See? Who better to learn than William of Ockham, whose freedom of thought had already earned him four years of prison life?

From April 1328 the friendship of Michael, Bonagratia and Ockham remained unbroken. On 26 May they escaped down the Rhone to Aigues Mortes (line 215) and from thence by sea to Pisa, where the imperial court was being held. Here Michael published his *Appeals*, the larger one in September, the smaller in De-

cember. The year following Michael was replaced by Gerard Odo, and his *Appeals* were answered by the pope in the *Quia vir reprobus*, which reached him at Munich early in 1330. During the next few years Michael wrote several short replies, but his force was spent and his place was taken by William of Ockham.

This *epistola* is an explanation to the Franciscan Order that its author was both authorized and determined to continue the struggle. It shows the steps by which its author had been converted to the views of Michael, and the sentiments contained in lines 393-426 are no idle bombast. Ockham was conscious of taking over his master's burden as a duty to be performed without thought of consequences. His literary output amply justifies the promise. Having lived four years with the pope at Avignon and four years with the emperor at Munich, he was well qualified to speak with authority.

The early events of 1334 may well have been the cause as well as the occasion of his writing. The withdrawal by John XXII on 3 January of his views on the Beatific Vision is far more important than any charge that Ockham lodges of frivolity and insincerity. Under the pressure of the whole Church John withdrew his opinions—and if opinions expressed in sermons, why not the ‘ad conditorem’ and the other Bulls relating to the Order? Whereas previously most Franciscans regarded the pope as a heretic, now every one within and without the Order could accept his heresy as an established fact. Ockham was free to write: indeed it was his duty to do so. But he had passed through an intellectual struggle before he gave his thoughts to the world. ‘I

have set my face like the hardest rock against the errors of the pope' (line 408). This is not the conviction of a moment. Year after year at Munich he had been absorbing, digesting and arranging—consciously or unconsciously—the ideas of Michael: and then it all came out. His determination is enormous (line 413): 'While I have hand and paper, pen and ink, neither lies nor false charges, neither persecution of any kind that leaves my person untouched, nor the many that believe in him, favour him or even defend him, will ever be able to keep me, as long as I live, from attacking and refuting his errors.' He is even prepared to stand alone, like Elijah (line 422). But elsewhere we detect a note of diffidence, for at line 453 he tells us that if anyone can prove that the pope's doctrine does not deviate from the catholic faith, he will not be slow to return to the fold.

In these three distinct aspects, his determination to attack the errors of the pope, his willingness to stand alone, his conditional promise to return to the Church and the Order which had excommunicated him, Ockham was of precisely the same mind and character in 1347 as he was in 1334. We can only infer that if Ockham was a theologian by constraint, he was a heretic by reason of the same logical necessity. His looking back to his Church and his Order, the mere fact of his writing this *epistola*, is a sign of surviving loyalty. To this may be added his loyalty to truth as he conceived it, and between them both creeps in the charge of insincerity, a charge as little deserved by Ockham as by Newman. Their paths indeed had lain in opposite directions, but

they had travelled far, guided by intellect and gaining conviction at every step, only to find that at their journey's end they were destined to be spiritually without a home.

* *
*

THE contents of this *epistola* now call for a word of explanation. The series of errors (already cited, p. xv supra) occur at lines 28-110 (on the 'ad conditorem') 116-133 (on the 'cum inter'), 134-186 (on the 'quia quorundam'), 232-372 (on the Q.V.R. under 41 headings), 373-392 (on the sermons of John xxii preached after the publication of the Q.V.R.). As proportionately more attention has been given in the notes to the Q.V.R. and to the sermons that followed it, than to the other pronouncements of the pope, the 'ad conditorem' will require a word or two of introduction by itself.

The importance of the sermons, however, already noted above, cannot here be passed over in silence. On several occasions, particularly on the Vigil of Epiphany 1332, John xxii had declared that the souls of the departed saints, even the Blessed Virgin herself, were not admitted immediately into the presence of God, but remained apart from the Beatific Vision until the Day of Judgment. In the same way demons or evil spirits were not to be punished until the Day of Judgment, and so forth. Were such the case, prayers to the saints for the souls in Purgatory would be without avail, and the chain that united the Church Militant with the Church Triumphant would be broken. These various points were duly marked down against the pope and discussed with such passion that he was reluctantly obliged to

withdraw them on 3 January 1334. Unfortunately the matter was reopened by a clumsy preacher, who voiced these views as the pope's considered opinion, and the struggle ended only on the day before the pope's death, when he was forced into a final recantation.

There can be no doubt that from the point of view of strict catholic doctrine John xxii was seriously in error. Had the mistakes been made at an earlier date, the Franciscans might have gained more support than they did for their anti-pope Nicholas v, when in April 1327 they deposed John xxii in Rome. But these lucky errors came too late, for by 1330 the publication of the Q.V.R., the withdrawal of the imperial party to Munich and the submission of the anti-pope left John xxii nothing to fear from his late enemies. The struggle now ended, the pope had a little time for theological speculation, and his advancing years—he was ninety when he died—sufficiently account for his aberrations, strange though they seem in one whose whole vigour was spent in destroying heresy in others. Needless to say Ockham and his friends required no further proof that not only upon this but also upon all other subjects the statements of John xxii were repugnant to the truth.

On the other hand the matters discussed in the four Bulls cited above may conveniently be regarded from two points of view: (1) the relations of the Order to the Holy See, and (2) the definition of poverty within the meaning of the Franciscan vow.

Up to November 1322, when John xxii published the 'ad conditorem,' all the property of the Franciscan Order had been held by the Holy See, in such a way that

the pope had the ownership and the Order the mere use. This system, by which the Order had been expropriated, was the invention of the Franciscan Pope Nicholas III, and his instrument was the Bull 'exiit' of August 1272. Since the time of Saint Francis himself there had been many who regarded the strict rule of poverty as impracticable; and others besides who clung steadfastly to the rigid practice of the founder. But the establishment of Franciscan settlements, as the years passed on, pointed almost inevitably to the acceptance of lands and houses presented by generous or grateful admirers of the Order. For half a century Conventuals and Spirituals encouraged or rejected these offers of wealth, till in 1272 the Bull 'exiit' ended their struggle by justifying the practice of the former, while saving the conscience of the latter. For half a century more the system of expropriation held sway, approved by Clement v in the Bull 'exivi' of 1307 at the council of Vienne, and by John xxii in the Bull 'quorundam exigit' of 1317.

But the dangers inherent in the system of expropriation had not escaped Boniface viii, Clement v and John xxii; and as their warnings went unheeded, the Order was itself entirely to blame for its abolition. So soon as the papacy shouldered the burden of ownership, the wealth of the friars outgrew all sense of proportion, till the frugal Order of Saint Dominic turned its rivalry into hatred. Pope John xxii for his own part might have overlooked in silence the incongruity of Franciscans swearing themselves to poverty amid the delights of palaces and gardens, had the responsibility for their ownership rested in hands other than his own. Even so,

the irritation that provoked him to action was due not so much to the wealth enjoyed by the Order, as to the attitude of the Order to that wealth. The friars had come to think of the possessions they used as in every way their own, save only in regard to their vow of poverty.

This situation had arisen from the faulty drafting of the Bull 'exiit.' Allowed to exchange small articles such as books and clothing, or to sell them and buy what they more immediately required, the friars exploited this concession to the full, so that the exception became the rule. Thus any gifts to the Order, in reality gifts to the pope for the use of the Order and on loan from him to the friars, were in many cases no sooner received than sold, while the papal procurators strove with difficulty to trace these various financial transactions. In such circumstances the papal ownership was null and void. The friars themselves had made the Bull 'exiit' a dead letter. One question alone remained, whether this dubious system of expropriation had made the friar less solicitous for worldly wealth. Did the noviciate mark the end of his desire for riches, the expropriation helping to wean him from the world? Quite on the contrary, the vow of poverty was the surest avenue to wealth. Nothing now could deter the pope from acknowledging the facts. The formal revocation of the Bull 'exiit' was imperative, since experience had shown that the provisions of Nicholas III had produced in result the precise opposite of what had been intended.

John XXII, however, in his Bull 'ad conditorem' was not content with a mere withdrawal of the Bull 'exiit,'

but went further and showed that Michael and the Franciscans had not only misinterpreted Nicholas III, but were supporting their views with arguments devoid of all reason. Certainly Nicholas had made the Roman Church the owner of all Franciscan property so that the Order might have the use of it, but he had never arranged for the friars to have the *simplex usus facti* that they claimed in things consumable by use. This simple actual use, it may be noticed in passing, is a use of things (*usus*) devoid of ownership (*simplex*) and, existing for the moment in a specific act (*facti*), is entirely divorced from any idea of a right to use.

Now Nicholas III, according to John xxii, had never granted this simple actual use, because he could not grant the impossible. Roman law (Digest vii, i, 1) defined use as 'the right of using other people's property, the capital value remaining unimpaired.' How did this affect the friar eating an egg or a roll of bread? It was impossible to believe that the Roman Church had the ownership of the egg or roll while the friar had the simple actual use. Here it is true that the owner and the user are different persons, and the early part of the definition is satisfied: but in the case of food the using consists in the act of using, which is the act of consuming, an act destroying the capital value of the thing used. Clearly then the friar has in one act (1) robbed the Roman Church of an egg or roll by eating it, (2) stultified the definition of Roman law in his own particular case by destroying the capital value of the thing used, and (3) broken his vow of absolute poverty; for if anyone owns the egg or roll when eaten, it is the friar. Nor a-

gain could the friars claim *to have* simple actual use, for use in the case of food consists solely in the act of using, that is, in an act of some sort, which being instantaneous, could not be *had*.

Simple actual use, therefore, in the opinion of John xxii was an empty phrase, intended to soothe and satisfy the Franciscan conscience. The acts of eating and drinking are fundamentally unavoidable, and any attempt to escape from the charge of ownership in such a connexion was the merest subterfuge. Absolute poverty as defended by Michael lay outside the limits of practical human life.

The storm that greeted the 'ad conditorem' would be worth examining in detail, were space sufficient. It remains to add that Michael fell back for support on his letter from the general chapter at Perugia, dated Whitsunday 1322, six months earlier. This letter stated that Christ and the Apostles held no property either as individuals or in common. To Michael it was abundantly clear that Christ and the Apostles, in showing the way of perfection, had avoided ownership, as is shown by all the founders of religious orders, Benedict, Augustine, Bernard, Dominic, and Francis, who founded their societies in imitation of Christ, and were all in error, and with them the whole Church, if John xxii was right. But as Christ and the Apostles did live a human life, Michael could only explain that while they abdicated private ownership, they allowed themselves a simple actual use of necessities provided by the faithful.

In November 1323, in the Bull 'cum inter,' John xxii briefly condemned the view that it was heresy to say

that Christ and the Apostles held property either individually or in common: and renewed his censures at much greater length in November 1324 in the Bull 'quia quorundam,' which goes into some detail as to the reasons why as pope he had rescinded the Bull of his predecessor. His chief argument is that if he himself had created an innovation by rescinding the Bull of Nicholas his predecessor, he was only following in the footsteps of Nicholas, whose Bull under discussion was itself a decided innovation.

These three Bulls of John XXII were insufficient to deter Michael and his friends from their views and their determination to disseminate them. Michael's two *Appeals*, written at Pisa under the protection of Lewis, received their reply in the Q.V.R. The whole field is reviewed in this *libellus*, one third the length of Michael's greater *Appeal*. The Q.V.R. is a brilliant masterpiece of solid reasoning and careful sifting, based, not as one might have expected, on the Fathers, lawyers and philosophers of the Church, but on the books of the Old and New Testaments. The absolute poverty of Christ is dismissed as unwarranted by any text of scripture, nor can a single passage be cited to show that the Apostles took a vow of poverty. Christ possessed property, very little: none the less He had as much as He needed. It must be admitted that in Him evangelical poverty reached its climax, but it consisted not in any abdication of the right to possess, nor yet in the fewness of His possessions, but in His attitude towards the question of having and not having. For Him the problem was neither here nor there. At one moment we read of the

Son of Man having nowhere to lay His head, at another of the need for a wedding garment and of rejoicing with the bridegroom. From the pages of the Q.V.R. our Lord stands out far more as an ordinary man than our idea of mediaeval art and literature would have led us to expect. There was, therefore, by implication, no economic basis for Christian perfection.

One point in conclusion may be worth adding. As soon as the 'ad conditorem' was published, Bonagratia presented in person his own appeal against the Bull, an act for which he was rewarded with imprisonment. In his appeal he objected to the statement of John xxii that the Order of Saint Francis was a 'fictitious person,' without will to think or act for itself. What one man could do (Saint Francis?), many men, and finally a community, could do. But Bonagratia was in advance of his time. Every mediaeval community had been called into being by a pope, emperor or king, and what the popes had given they could take away, as in the case of the Templars. The pope was at least the head of the church, and *ex-officio* head of each part of it. As the latter John xxii produced the 'ad conditorem' and failed: as the former he interpreted Christian doctrine with his Q.V.R., and won. Thus in either capacity he could rule each religious community.

In such circumstances there was no liberty of thought and no independent religious community for its development. But if the community fared ill, the individual fared worse. In his Bull 'Sancta Romana' of 1317 John xxii ordered all the *fraticelli* or free followers of evangelical poverty to attach themselves to one of the

recognised orders, or be burned at the stake. The *fratelli*—a name often in error applied to Michael and his friends—were some of them the only true followers of Saint Francis. They had abandoned obedience the better to preserve their poverty and chastity. It is certain that in half a century after the writing of this *epistola*, in the days of Chaucer, the friars were simply obedient. John XXII was seriously to blame for the fact that the Order after a century of brilliant success lost, through the absence of self-expression, the last flicker of enthusiasm. Michael tells us that John's vehemence against the Order grew with his own private resources: and indeed he died worth many millions. But such a policy as this *epistola* condemns can occasion no surprise, so natural does it seem in one who could take the well-known words of the Franciscan rule, and reverse them to the effect, that obedience (which is of the mind) is greatest, chastity (which is of the body) is less, and poverty (which is of the things of this world) is least of all.

GULIELMI DE OCKHAM

EPISTOLA AD FRATRES MINORES

RELIGIOSIS viris fratribus minoribus univer-
sis anno Domini 1334 in festo Pentecostes apud
Assisium congregatis frater Guilhelmus de Ockham
fidem defensare fideliter orthodoxam. De omnibus
rationem esse reddendam scripturae divinae insinu- 5
ant, exempla sanctorum ostendunt, recta ratio dictat,
iura humana praecipunt et fraterna caritas persuadet.
Proinde ut apostoli gloriosi beati Pauli sequar utcum-
que vestigia, vobis, quantum in me est, omnibus
Christianis, catholicis et haereticis, de his quae egi ago. 10
et agam cupio reddere rationem. Noveritis itaque et
cuncti noverint Christiani quod fere quatuor annis in-
tegris in Avinione mansi antequam cognoscerem prae-
sidentem ibidem pravitatem haereticam incurrisse.
Quia nolens leviter credere quod persona in tanto 15
officio constituta haereses definiret esse tenendas, con-
stitutiones haereticas ipsius nec legere nec habere
curavi. Postmodum vero ex occasione data superiori
mandante tres constitutiones seu potius destitutiones
haereticas ipsius videlicet 'ad conditorem,' 'cum in- 20
ter,' et 'quia quorundam,' legi et studui diligenter. In
quibus quam plura haereticalia erronea stulta ridi-
culosa fantastica insana et diffamatoria fidei ortho-
doxae, bonis moribus et rationi naturali, experientiae

² millesio cccxxiiii pet
¹³ psidente ¹⁴ incurisse

³ guilhus
¹⁶ diffiniret

⁴ deffensare
²² ridiclosa

¹⁰ hiis
²³ insania

25 certae et caritati fraternae, contraria pariter et adversa
 patenter inveni: de quibus nonnulla duxi praesentibus
 inserenda.

Primus itaque error praesentibus annotandus in
 constitutione 'ad conditorem' contentus est, quod ex-
 30 propriatio fratrum, qua se in professione per votum
 paupertatis expropriant, si eadem sollicitudo circa
 temporalia quae ante inerat perseveret, ad perfectionem
 nil valet conferre. Ex quo sequitur evidenter quod
 si fratres post professionem sunt aequae solliciti circa
 35 temporalia sicut in noviciatu fuerunt, votum pauper-
 tatis eorum ad perfectionem valet nil conferre, et ita
 hic videtur incidere manifeste in errorem dicentium
 quod opus bonum factum cum voto non est magis
 meritorium quam factum sine voto, quia sine isto ar-
 40 gumentum, per quod probare molitur quod expro-
 priatio fratrum non profuit eis ad perfectionem, omni
 apparentia careret, sicut in aliis allegationibus aperte
 probatur.

Post praedictam autem assertionem subiungit di-
 45 cens et asserens quod fratres post declarationem Ni-
 colai III non fuerunt in acquirendis ac conservandis
 bonis praedictis (de quibus scilicet in declaratione fit
 mentio) in iudicio et extra minus solliciti quam sint re-
 ligiosi mendicantes alii habentes aliqua in communi:
 50 in quo dicto fratres de transgressione declarationis re-
 gulae et voti sui notare videtur.

Secunda assertio contenta ibidem est quod fratres
 propter carentiam dominii Romanae ecclesiae reser-

²⁵ adversa

²⁶ dux

³⁵ temporalia

⁴⁵ nicholai

⁴⁶ tercii

vati non sunt pauperiores quam si res ipsas cum illo
 quo carere se dicunt dominio obtinerent. Ex quo sequi 55
 videtur quod ordo frustra et inutiliter dominium om-
 nium temporalium reservatum Romanae ecclesiae ab-
 dicavit, et tamen nihilominus ista assertio scripturae
 divinae et rationi naturali repugnat, sicut in pluribus
 operibus ostenditur evidenter. 60

Tertia assertio est quod ideo dominium Romanae
 ecclesiae reservatum est simplex, id est, palliatum
 nudum et aenigmaticum, sicut infra exponitur, et per
 consequens inutile, quia ex illo nullum eidem ecclesiae
 temporale obvenit hactenus commodum, nec spera- 65
 tur quod obvenire debeat in futurum.

Hic error in decretali 'exiit' apertissime reproba-
 tur, in qua aperte asseritur, quod retentio talis domini
 cum concessione usus facti pauperibus tanto censetur
 utilior quanto commutat temporalia pro aeternis. Re- 70
 tentio autem domini palliati nudi et aenigmatici magis
 nociva quam utilis est censenda. Ex hac assertione
 nihilominus sequi videtur, quod omnia sunt inutilia
 reputanda ex quibus non obvenit commodum tem-
 porale, nec speratur quod obvenire debeat in futurum: 75
 quod esse haereticum nullus fidelis ignorat.

Quarta assertio est quod usus facti in rebus usu
 consumptibilibus non potest a proprietate seu dominio
 separari. Ex quo sequitur evidenter quod fratres quan-
 documque rebus usu consumptibilibus utuntur, ha- 80
 bent proprietatem seu dominium earundem saltem in

⁵⁸ nichilho' ⁶³ enigmatum ⁶³ exponit ⁶⁵ actenus comodum nec spatium

communi. Ista assertio scripturae divinae et rationi naturali ac experientiae certae repugnat aperte. Videmus enim tam fures et latrones quam alios uti huiusmodi rebus absque dominio et proprietate, licet quidam licite, quidam vero illicite, uti noscantur.

Porro ut istam assertionem probet fundet et muniat, plurima quae fantastica mihi videntur quae reprobatione non indigent, introducit definiens pronuntians et affirmans, primo quod simplex usus facti, quia nec est servitus nec pro illo competit ius utendi, non potest in rebus usu consumptibilibus constitui vel haberi. Item quod re illa uti quis nequeat ex qua eius salva substantia nulla potest sibi provenire utilitas quales res usu consumptibiles esse constat. Item quod actus utendi sine iure aliquo non potest in rebus usu consumptibilibus constitui vel haberi. Item quod licet in rebus usu consumptibilibus nec ius utendi nec ipsum uti possit constitui vel haberi, ipsis tamen poterit quis abuti. Item quod uti praesupponit quod cum usu salva rei substantia maneat. Item quod abuti exigat quod cum actu huiusmodi rei substantia consumatur. Item quod actus utendi, nec antequam exerceatur, nec dum exercetur, nec postquam perfectus est, est in rerum natura, et quod cum actus est in fieri nec adhuc est in rerum natura. Haec et multa alia quae ridiculosa videntur et tamen scripturis sacris contraria in fulcimentum praedictae assertionis inducit, quae, nisi intelligantur ut prima facie sonant, sunt omnino impertinentia ad conclusionem intentam.

⁸⁸ michi⁹⁰ qui⁹⁴ pñuciare¹⁰² consumatur¹⁰⁹ sonat

Plures etiam alias assertiones in destructionem regulae nostrae et paupertatis ecclesiasticae in eadem constitutione definitive determinat asserit et affirmat, de quibus causa brevitatis pertranseo: et quia de eis in aliis operibus disseritur exquisite.

115

In constitutione autem 'cum inter nonnullos,' intendens ut ipse testatur finem concertationi imponere, quae inter scholasticos versabatur, quorum aliqui asseriebant Christum et apostolos nonnulla habuisse iure proprietatis et domini, nec in speciali, nec etiam in communi. Alii autem contrarium affirmabant, partem negativam determinantes esse haereticam, quam tamen partem negativam tenuit Nicolaus papa tertius ex scripturis divinis accipiens fundamentum.

Item in eadem definitione pronuntiat quod nisi Christus et apostoli in his quae habuerunt habuissent ius utendi vendendi donandi et ex ipsis alia acquirendi, usus et gesta eorum fuissent iniusta, quod videtur haereticum manifeste. Ex quo etiam sequitur, quod cum fratres minores in his quae habere dicuntur non habeant iura praedicta, usus et gesta eorum essent iniusta: et ita status fratrum minorum esset haereticalis aperte.

In constitutione etiam 'quia quorundam' reperi quam plures assertiones, quae erroneae mihi videntur, de quibus pauca praesentibus annotabo.

Quarum prima est, quod apostolos post reditum a praedicatione portasse pecuniam, in plerisque locis

¹¹⁴ *inter* brevitatis et transeo p *suprascriptum est*

¹¹⁸ scolasticos

¹²² negativam det'miat

¹³⁶ anotabo

¹³⁷ redditu

evangelica veritas et apostolica dicta testantur, per
 140 quem errorem videtur imponere scripturae divinae
 aperte falsum. Quamvis enim legatur quod Iudas por-
 taverit loculos, nunquam tamen legitur quod apostoli
 post reditum eorum de praedicatione pecuniam por-
 taverunt.

145 Secunda assertio est quod dictum Christi cum dixit
 apostolis quod non portarent pecuniam non fuit prae-
 ceptum sed potestas recipiendi necessaria ab eis quibus
 evangelium praedicaverint, quod servare apostolis li-
 cuit vel etiam non servare.

150 Tertia assertio est quod habuit loculos quoad pro-
 prietatem.

Quarta assertio est quod habere aliqua in communi
 quoad proprietatem non derogat altissimae pauper-
 tati.

155 Quinta est quod Christus abdicationem iuris in
 cuiuscumque rei proprietate nec in se servavit nec
 eam imposuit apostolis nec eam apostoli receperunt
 sub voto.

Sexta est quod nec ad fidem pertinet nec ad mores
 160 Christum et apostolos in his quae habuerunt non
 habuisse nisi simplicem facti usum.

Septima est quod nonnulla quae Gregorius xi, In-
 nocentius iv et Alexander iv circa paupertatem fra-
 trum minorum declaraverant et determinaverant Ni-
 165 colaus iii revocavit.

Ad cuius probationem quaedam quae fantastica mihi

videntur et tamen haeresim sapiunt manifestam asserit et inducit. Quorum primum est quod ordo fratrum minorum est persona imaginaria et repraesentata: et per consequens eadem ratione ecclesia et quae libet congregatio ac multitudo et populus esset persona imaginaria et repraesentata. 170

Secundum est quod illa quae sunt facti ordini nequeunt convenire et per eandem rationem quae sunt facti ecclesiae vel collegio cuicumque aut multitudini nequeunt convenire: et ita ecclesia nec de quaestionibus fidei definire nec iurisdictionem valet exercere, nec lites terminare, nec statuta condere quaecumque valeret. 175

Tertium est quod licet ordini ea quae sunt facti nequeant convenire, ordini tamen possunt congruere quae sunt iuris. Ex quo sequitur secundum evidentiam, quod ea quae sunt iuris possunt personae repraesentatae et imaginariae convenire, et aliquid potest alicui competere ius utendi cui tamen actus utendi omnino ex natura rei repugnat. 180

Avertens itaque tres constitutiones praedictas haeresibus ac erroribus memoratis aliisque quam pluribus esse respersas ita ut non meminerim me umquam vidisse tam parvam scripturam cuiuscumque haeretici vel pagani quae tot errores et haereses contineret aut ita esset veritatibus theologicis vel philosophicis impermixta: 190

Attendensque actorem et omnia dogmatizata in

¹⁶⁹ ymaginaria

¹⁸⁵ compet'e

¹⁹³ in p*u*mixta

¹⁹⁴ lacuna apparet in textu inter actorem et et

¹⁹⁴⁻⁵ impis

¹⁹⁵ ipsis definitive pronuntiasset esse tenenda, ipsum
 esse haereticum nullatenus dubitavi: propter quod
 non ignorans omnes haereticos nil potestatis aut iuris
 habere, ac excommunicationis sententia innodatos et
²⁰⁰ licet pro statu cuiuscumque efficaciter impugnandos,
 quia error cui non resistitur approbatur; sciensque
 secundum canonicas sanctiones, quod quaestio fidei,
 quando certum est assertionem illam veritati fidei re-
 pugnanare non solum ad generale concilium aut praela-
²⁰⁵ tos vel etiam clericos, verum etiam ad laicos et 'ad
 omnes omnino pertinet Christianos,' distinctione xcvi
 capitulo 'ubinam,' ubi glossa accipit argumentum
 'quod omnes tangit ab omnibus tractari debet' (ex
²¹⁰ quibus colligitur evidenter quod quaestio fidei etiam
 ad mulieres spectat catholicas et fideles exemplo pluri-
 marum sanctarum quae pro defensione et confessione
 fidei orthodoxae mortem et martyrium constantissime
 susceperunt,) ut impugnationi haeretici supradicti
²¹⁵ haeresiumque suarum pro modulo meo vacarem, liben-
 tius de Avinione recessi et civitatem Pisanam pergens
 appellationi fratris Michaelis generalis ministri con-
 tra pseudopapam haereticum memoratum provide in-
 teriectae adhaesi: licet secundum nonnullos non sit
²²⁰ simpliciter necesse in causa fidei appellare, eo quod
 nulla sententia contra fidem lata catholicam valeat
 transire in rem iudicatam.

Postea vero praedictus pseudopapa haereticus mani-

¹⁹⁶ nullatenus

²⁰¹ Sciensq;
²¹² martiriū

²⁰⁵ laycos

²⁰⁷ ar^m.

²¹¹ deffencōne

²¹⁵ pargens

festus appellationi praefatae fratris Michaelis generalis ministri respondens et constitutionem 'quia vir reprobus' condens et publicans nos multipliciter confor- 225
tavit, et in ipso proposito nostro firmiter solidavit, quia novas haereses veteribus iungens quam plura quae credebamus ipsum nullatenus asserturum explicuit, et multas responsiones et evasiones, quae ad quasdam impugnationes nostras dari poterant, paten- 230
ter exclusit.

In constitutione autem praedicta 'quia vir reprobus' dogmatizantur assertiones infrascriptae, quae erroneae mihi videntur.

Quarum prima est quod in rebus usu consumptibili- 235
libus ius utendi haberi non potest.

Secunda est quod in rebus usu consumptibilibus actus utendi haberi non potest.

Tertia est quod rebus usu consumptibilibus non contingit uti, sed abuti. 240

Quarta est quod omnia quae erant communia credentibus in primitiva ecclesia, de quibus Actuum 2 et 4 capitulis fit mentio, erant eis communia quoad dominium tale quale ante conversionem habuerant.

Quinta est quod domus agri et cetera immobilia 245
erant communia credentibus conversis de quibus fit mentio Actuum 2 et 4 capitulis quoad dominium et proprietatem.

Sexta est quod apostoli post missionem Spiritus

223 fr̄is m.

225 vigilans

227 plā que

242-3 et iiii caplis et āplis

245 in mobilia

247 ii et quarto c. et āplis

250 Sancti habuerunt praedia in Iudaea quoad dominium et proprietatem.

Septima est quod apostolis post missionem Spiritus Sancti licuit tam in Iudaea quam inter gentes praedia possidere.

255 Octava est quod post divisionem rerum communium, de quibus fit mentio Actuum 2 et 4 capitulis, quilibet apostolorum et aliorum credentium, erat propriarius et dominus in speciali pecuniae et aliarum rerum sibi assignatarum.

260 Nona est quod votum vivendi sine proprio non se extendit ad ea quibus necessario eget vita humana.

Decima est quod cum Petrus dixit ecclesiae, 'Ecce nos reliquimus omnia,' non intellexit quod reliquerit omnia quoad dominium et proprietatem.

265 Undecima est quod apostoli non voverunt abdicationem proprietatis omnium temporalium etiam in speciali.

Duodecima est quod apostoli praedia quorum non habuerant dominium et proprietatem in Iudaea post 270 missionem Spiritus Sancti postea vendiderunt.

Tertia decima est quod paupertas evangelica etiam in perfectissimo gradu dominium et proprietatem rerum nequaquam excludit.

275 Quarta decima est quod illa benedictio 'Crescite et multiplicamini' de qua fit mentio Gen. 1 fuit data Adae extra Paradisum ante formationem Evae.

Quinta decima est quod Adam ante formationem Evae habuit dominium temporalium rerum, quod modo vocatur proprietas.

Sexta decima est quod servus actualiter mutuans 280 pecuniam domini sui nec usum nec abusum habet pecuniae.

Septima decima est quod verba Nicolai papae III definientis in decretali 'exiit' quod fratres minores habent usum facti omnium rerum, quibus utuntur 285 absque dominio et proprietate debent intelligi de rebus quae non consumuntur usu: et quod si constitutio 'exiit' definiret, quod fratres minores in rebus usu consumptibilibus habeant simplicem facti usum, impossibile definivit. 290

Duodevicensima est quod usus facti in rebus usu consumptibilibus ex Dei statuto non habetur.

Vndevicensima est quod actus consumendi in rebus usu consumptibilibus non potest a dominio separari.

Vicensima est quod Nicolaus III non concessit fra- 295 tribus simplicem usum facti rerum usu consumptibilium: et si concessit constitutio sua impossibile continebat.

Vicensima prima est quod nullus actus successivus est in rerum natura, nec esse potest. 300

Vicensima secunda est quod omne ius humanum quo temporalia dominia possidentur in regum legibus continetur secundum quod reges contra alias potestates publicas distinguuntur.

Vicensima tertia est quod quantum ad res tempo- 305 rales ius civile formulas actionum et nudum dominium introduxit.

295 tercius

301 xxii q

303 contras

306-9 et nullū dñiū intro

duxit (H) xxv^a q'

Vicensima quarta est quod

310 Vicensima quinta est quod Christus inquantum
homo viator mortalis ab instanti conceptionis suae
fuit dominus temporalis omnium rerum temporali-
um.

Vicensima sexta est quod Christus inquantum deus
ab aeterno eo ipso quo pater genuit eum habuit reg-
315 num et universale rerum dominium.

Vicensima septima est quod Christus non ab in-
stanti conceptionis suae sed postea successive modis
aliis utpote ex collatione fidelium vel emptione habuit
dominium vestimentorum alimentorum calciamen-
320 torum et etiam loculorum.

Duodetricesima est quod Christus inquantum
homo viator regno temporali et rerum universali
dominio renuntiare non potuit.

Vndetricesima est quod Christus non fuit pauper
325 propter carentiam domini rerum, sed propter caren-
tiam perceptionis fructuum rerum.

Tricesima est quod nudum dominium separatum
in perpetuum ab omni perceptione commodi rei ha-
bentem non facit divitem.

330 Tricesima prima est quod omne dominium a per-
ceptione temporalis domini denudatum est inutile
reputandum.

³¹⁰ immortalis ³¹⁵ et vlē ³²¹⁻⁷ post Christus invenitur signum σ,
et in margine in q^m hō viator regno tēpō^l et re^l vlī dñō renūciare nō
potuit: *legimus autem in textu post signum σ* non fuit pauper...fructuū
rerum (19) xxix^a est q' xpūs non fuit pauper xxx^a ē q' nudum dñm³
a p'ceptōe tēporalis comodi denudatū est inutile reputandum

Tricesima secunda est quod apostoli antequam mitterentur ad praedicandum nullius rei temporalis reliquerunt dominium vel proprietatem. 335

Tricesima tertia est quod Christus nullam aliam legem vivendi dedit apostolis quam aliis discipulis, comprehendendo sub nomine discipulorum omnes Christianos viros et mulieres.

Tricesima quarta est quod praeceptum datum apostolis de non possidendo aurum et cetera fuit temporale pro tempore illius viae solummodo. 340

Tricesima quinta est quod apostoli post reversionem a praedicatione habuerunt panes pisces pecuniam tunicas et gladios quoad proprietatem seu dominium. 345

Tricesima sexta est quod apostoli potuerunt licite pro rebus temporalibus sicut pro propriis in iudicio contendere et litigare.

Tricesima septima est quod verba illa Matthaei 5 350 'Qui vult tecum in iudicio contendere' et cetera et Lucae 6 non fuerunt dicta perfectis sed tantummodo imperfectis, quod erroneum est, quia utrisque data fuerunt, licet possit diversimodo intelligi, ut dicta perfectis et imperfectis. 355

Duodequadragesima est quod duodecim apostoli tunc non erant apostoli quando illa praecepta 'qui vult tecum contendere in iudicio' et cetera, de quibus Matthaei 5 et Lucae 6 fit mentio, ipsis data fuerunt.

Vndequadragesima est quod apostolus 1 ad Corinthios 6 solummodo interdixit aut dissuasit Corinthiis 360

iudicia seu litigia fraudulenta et iniuriosa coram infidelibus, et quod nulla alia litigia reprehendit nec etiam dissuasit, sed magis eos voluit litigare.

365 Quadragesima est quod clavis scientiae nullo modo est clavis ecclesiae seu regni caelorum, quia nec est eadem, nec distincta a clave potentiae.

Quadragesima prima est quod Romanus Pontifex quantum ad ea quae spectant ad fidem et mores potest definitiones et determinationes praecessorum
370 suorum pontificum revocare et assertiones contrarias definire.

Post praedictam autem constitutionem 'quia vir reprobus' plures assertiones contrarias veritatibus
375 quas tenetur explicite credere praedicavit et docuit.

Quarum prima est quod in divinis non sunt tres personae distinctae.

Secunda est quod Deus nihil potest facere de potentia absoluta nisi quod facit de potentia ordinata,
380 et quod contradictionem includit, quod Deus aliud vel aliter faciat quam facit, et quod omnia de necessitate eveniunt, ita quod contradictionem includit, quod aliquid fuit quod praeordinatum a Deo non fuerit.

Tertia est quod animae sanctorum in caelo non vident Deum nec visurae sunt ante diem iudicii generalis.
385

Quarta est quod animae reproborum non sunt nec erunt in inferno ante diem iudicii generalis.

Quinta est quod daemones non puniuntur nec
390 punientur ante diem iudicii generalis.

Sexta est quod Christus non erit rex post diem iudicii.

Propter errores et haereses suprascriptas aliasque innumeras ab obedientia pseudopapae omniumque sibi faventium in praeiudicium fidei orthodoxae me 395 abiungo. Est enim mihi per viros literaturae egregiae evidenter ostensum, quod propter praedictos errores et haereses praedictus pseudopapa haereticus papatu privatus excommunicatus ipso iure absque omni nova sententia est censendus, quia in canones latae 400 sententiae tam generalium conciliorum quam summorum pontificum incidit manifeste. Ad quae probanda plura volumina sunt edita et ego de haeresibus et erroribus memoratis et eis annexis de tenuitate ingenii mei scripsi manu mea quinquaginta sexternos 405 de communi forma papyri et adhuc habeo scribere quadraginta et amplius. Nam contra errores pseudopapae praefati posui faciem meam ut petram durissimam, ita quod nec mendacia nec falsae infamiae nec persecutio qualiscumque quae personam meam cor- 410 poraliter non attingit nec multitudo quantacumque credentium sibi aut faventium vel etiam defendentium me ab impugnatione et reprobatione errorum ipsius, quamdiu manum cartam calamum et atramentum habuero, nunquam in perpetuum poterunt cohibere. 415 Ante enim quam omnes praedictos errores compossibiles fidei reputarem, totam fidem Christianam omnesque promissiones Christi de fide catholica usque ad finem saeculi duratura ac totam ecclesiam Dei in

395-6 me abigno 399 omī q 406 papiri 415 choib'e 419 duraturam

420 paucis, immo in uno, posse salvari putarem; et omnes
 alios Christianos contra fidem errare catholicam arbi-
 trarer, ad instar Eliae prophetae, qui licet putasset se
 solum deicolam fuisse relictum, tamen fidem veram
 minime dereliquit: quamvis modo non ambigam
 425 multa milia virorum et mulierum genua fidei suae
 coram Baal nullatenus incurvasse.

Qui igitur me vel alium quemcumque ab obedien-
 tia pseudopapae et sibi faventium recedentem voluerit
 revocare, constitutiones et sermones eiusdem fundare
 430 conetur, et quod cum scripturis divinis concordent
 ostendat aut quod papa non potest in haeticam inci-
 dere pravitatem, vel quod sciens papam esse notorium
 haeticum, sibi debeat obedire, auctoritatibus sacris
 vel rationibus manifestis ostendat: multitudinem sibi
 435 adhaerentium nequaquam alleget, nec conviciis innita-
 tur. Nam qui multitudine mendaciis conviciis impro-
 periiis criminationibus et falsis infamationibus se ar-
 mare nituntur, se monstrant a veritate et ratione nu-
 dados. Nemo ergo existimet, quod propter multitu-
 440 dinem pseudopapae faventium aut propter allega-
 tiones haeticis et orthodoxis communes velim ab
 agnita veritate recedere: quia scripturas divinas viro
 praefero in sacris litteris idiotae, doctrinamque san-
 ctorum patrum cum Christo regnantium traditionibus
 445 in hac vita mortali degentium antepono, et generale
 capitulum Perusinum, in quo fratres quamvis cum
 timore tamen ex conscientia processerunt, omnibus

420 p^uacis ymo
 439 g^o se

422 helie
 443 p^uferro

424 dereliquid C^uuis
 ydiote

426 nullathenus
 447 ex coscia

congregationibus fratrum posterioribus in quibus honore vel ambitione aut odio movebantur reputo proponendum, ac fratres omnes universos et singulos 450 pro tempore quo veritates fidei et ordinis tenuerunt, sibi met ipsis si easdem veritates dimiserint praevalere.

Si quis autem mihi patenter ostenderit quod constitutiones et sermones pseudopapae a catholica non devient veritate aut etiam quod papae haeretico qui- 455 cumque sciens ipsum esse haeticum debeat obedire, ad fratres sibi faventes non tardabo reverti: qui autem neutrum istorum nec ratione nec auctoritate probare valuerit, nec mihi nec alicui qui dicto haeretico non obedit debet esse molestus. De causa igitur absentiae 460 meae a multitudine fratrum vobis reddidi rationem. De aliis etiam quibuscumque dictis et factis meis coram iusto iudice rationem reddere non formido, quam vis nequitas hominum non ignorem. Puto enim in istis quatuor annis ultimis plura de moribus nunc 465 viventium evertisse, quam si cum eis extra istam brigam quadraginta annis conversationem continuam habuissem. Nam sanctarum regulas scripturarum mores hominum describentes, dum cotidie per experientiam verificatas conspicio, magis intelligo. 470 In hoc enim probationis tempore cogitationes de multorum cordibus revelantur. Nolite autem nimis emungere, quia, cum ille, qui nunc regnat, sit mortalis, nescitis quid superventuri parient dies. Monstra autem in bonum convertere Omnipotens dignetur. Amen. 475

457 fr̄es qui faventes

465 nuc

470 verificario

EPISTOLA AD FRATRES MINORES

NOTES

- Pentecostes*. Whitsunday this year was on 15 May. The general chapter of the Order was held every three years. 2
- frater . . . rationem . . . Pauli*. In the opening paragraph of the *De Imp. et Pont. Potestate* of 1347 Ockham still refers to himself as "Brother William" after endless excommunications from the pope and his Order. His intention once more is expressed in the words *cupio reddere rationem*. He does not liken himself to St. Paul, as here, or to Elijah, as at line 422, but to Athanasius, Jerome, Damasus, and others. 3
- cuncti noverint*. Ockham, *Compendium errorum* cap. v, suggests that John xxii's general unpopularity had made the cause of the Spirituals better known: "Noverunt enim plures mundi partes ipsum fuisse tyrannum crudelissimum, humanum sanguinem ultra modum sitientem, qui offensus nunquam destitit, donec suum offensorem, si sibi fuerit possibile, sine misericordia de mundo extirpasset." 12
- fere quatuor annis*. It is impossible to say precisely when Ockham went to Avignon, but it is clear that he escaped with Michael of Cesena and Bonagratia of Bergamo on 26 May 1328 and arrived at Pisa on 9 June following. Ten days or so after their flight John xxii published his 'Dudum ad nostri apostolatus auditum' (Baluze, *Miscell.*, vol. iii, p. 244), in which he mentions Ockham, apparently for the first time, in the following words: "Et quidam Anglicus vocatus Guillelmus Ockham ordinis praedicti contra quem ratione multarum opinionum errorum et haereticarum quas ipse scripserat et dogmatizaverat, pendebat in eadem curia inquisitio auctoritate nostra diu iam incepta, et propter hoc erat ne absque nostra licentia de curia memorata discederet arrestatus, ad Portum supradictum (*sc. Aigues Mortes*) deveniens se quoque reddens cum dictis complicibus fugitivis, primo quandam navem sive concham ac deinde galeam supradictam conscendit." The words *diu iam incepta* are important, while *scripserat* no doubt refers to Ockham's first work, a commentary on the *Sentences* of Peter Lombard. Ockham 12

had many opportunities in the course of his writings for complaining of ill-treatment from the pope, had he experienced it. Of Bonagratia's imprisonment he says, "tetro carceri crudeliter mancipavit" (*Comp. Err.* cap. v.). But Bonagratia had been obliged to publish his opinions. We may therefore assume, in view of this Bull and in the absence of other evidence, that Ockham, though a suspect for four years, had never at Avignon declared any convictions relating to the Order.

- 13 *praesidentem*: John xxii himself. Notice construction *noveritis . . . quod*, and *cognoscerem* with accusative and infinitive.
- 20 *ad conditorem*. This was published in two forms, both dated 8 Dec. 1322. It would appear that Bonagratia lodged his Appeal of 13 Jan. 1323 against the shorter edition. The 'ad conditorem' deals exclusively with the immediate relations between the Holy See and the Order. Of the two sections into which it falls, the first shows the fallacies in the arguments of Michael and proves in a variety of ways that in things consumable by use the Order could not claim to have the use and the Holy See the ownership: the second, which (except for a remark at line 48) evokes no echo in this *epistola*, is a dilation upon the difficulties and indignities created in the law courts by the insistence of the Order upon use without possession. It is a Bull of brilliant subtlety, but by no means as clear as the Q.V.R. (*Quia vir reprobus*). The 'cum inter nonnullos' followed on 12 Nov. 1323, and in reply to Lewis of Bavaria's Appeal we have the 'quia quorundam' of 13 Nov. 1324.

As Ockham's "Work of Ninety Days" (*Op. Non. Di.*), published probably in 1334, is an exhaustive enquiry into these three Bulls and the Q.V.R., it may be of use to mention, in view of its enormous length, that the first 31 chapters deal with the Q.V.R., the 'ad conditorem' comes next, the 'quia quorundam' appears at cap. lxii, and the 'cum inter' begins with cap. lxxxii. At cap. xcvi we return to that part of the Q.V.R. where John xxii had remarked, "Nunc autem de Apostolis est videndum." The last chapter is numbered cxxiv.

- 29 *expropriatio fratrum*. The actual words of the 'ad conditorem' for this passage and the one in the succeeding paragraph are:

"Ipsis quidem Fratribus, quantum ad statum perfectionis, nequaquam profuit reservatio domini supra dicta. . . . Restat, quod, si sollicitudo eadem post expropriationem huiusmodi, quae ante ipsam inerat, perseveret, ad perfectionem huiusmodi talis expropriatio valeat nihil conferre. Constat autem quod post ordinationem praedictam non fuerint in acquirendis ac conservandis bonis praedictis in iudicio et extra minus solliciti, quam ante illam fuerant fratres ipsi, quanquam sint religiosi mendicantes alii, habentes aliqua in communi."

Of Ockham's many replies in cap. lxxv of his *Opus Nonaginta Dierum*, two run as follows. (a) Pope Nicholas stated that the *abdication proprietatis* was *meritoria* because Christ who showed the *Via Perfectionis* taught it by word and example. Now this abdication is difficult and hard, and *spectat ad viam perfectionis*. But the "expropriatio supradicta meritoria est et sancta secundum verba Nicholai praedicta, ergo ad viam perfectionis spectat et ita prodesse Fratribus potuit ad statum perfectionis." (b) What Christ advised "ad viam perfectionis spectat"; but Christ advised those who wished to choose the path of perfection to abandon all temporal things (Matth. 19 v. 21, *si vis perfectus esse*). "Ergo huiusmodi abdication ad statum perfectionis spectat," and so on.

opus bonum, continuing, "factum cum voto plus valet, quam factum sine voto." This is a reference to Anselm, *De Similitudinibus*, lib. i cap. lxxxiv. (Migne vol. clix). 38

in iudicio et extra. This paragraph is a continuation of 29 above. Notice *quanquam* and *quam*. 48

fratres . . . notare videtur, an interesting phrase. However much deceived a friar might be as to the meaning of the Bull 'exiit,' he had taken his vow of poverty in accordance with his belief. Now, after the publication of the 'ad conditorem,' the head of the Church was forcing the friars to possess property which previously the friars had sworn not to possess. The 'ad conditorem' struck the friars a double blow. It wounded their conscience and their pride. 50

Upon this problem Marsilius of Padua has two suggestions to make in his *Defensor Minor* capp. viii and ix, pp. 22 and 23:

if a vow is made "simpliciter et absque conditione," it is made to God alone, and no pope or bishop can grant a release from the vow. On the other hand the pope cannot force any monk or friar to observe "votum aliquid seu promissionem aliquam de novo factam per suum collegium," for the vow by definition is made by the friar "de fiendo vel omittendo aliquo sibi cognito, non ignoto." From this we gather that those who had taken their vows before the publication of the 'ad conditorem' were not in the opinion of Marsilius bound by the alteration of the terms.

- 54 *non sunt pauperiores.* The words of John xxii are; "Adhuc nec utique profuit dictis fratribus ordinatio supra dicta quantum ad hoc quod propter carentiam talis proprii se pauperiores dicere valeant, quam si res ipsas cum illo (quo carere se dicunt) dominio obtinerent."
- 61 *dominium . . . est simplex . . . et inutile.* Two passages from the 'ad conditorem' help to explain this paragraph. (1) "Attento tamen ipsorum fratrum utendi modo, et eius effectu, ac patientia circa modum ipsum Romanae ecclesiae subsecuta, non ipse usus fratrum dici debet, sed potius Romanae ecclesiae dominium esse simplex": and (2) "quod autem dominium Romanae ecclesiae reservatum simplex censi debeat, ex hoc patet, quod ex illo nullum eidem ecclesiae temporale obvenit haecenus commodum, nec speratur, quod obvenire debeat in futurum."
- 63 *aenigmaticum.* Probably the right reading, for in the Bull 'ad conditorem' we read, "nolentes in posterum sub praetextu seu pallio talis dominii temporalis, verbalis, nudi ac aenigmatici, tanta bona, quanta dicti fratres faciunt, infici." Ockham himself draws attention to these words in the *quartus decimus error* in cap. ii of his *Comp. Err.*
- 67 *in decretali 'exiit.'* Nicholas iii remarked: "Retentio namque dominii talium rerum, cum concessione usus facta pauperibus, non est infructuosa domino, cum sit meritoria ad aeterna et professioni pauperum opportuna: quae tanto sibi censetur utilior, quanto commutat temporalia pro aeternis."
- 70 *Retentio autem.* This seems to be the opinion of John xxii, for in his 'ad conditorem' he continues, "Ex quo patet quod usus

talis nec simplex, nec separatus a dominio potest dici. Rursus nedum fratribus ipsis ordinatio praedicta non profuit, sed etiam occasionaliter honori sacrosanctae Romanae ecclesiae non leviter detrahit et detraxit."

quod usus facti. The paragraph intended is evidently "quod nequaquam potest in rebus usu consumptibilibus reperiri, in quibus nec usus utendi nec usus facti separata a rei proprietate seu dominio, possunt constitui vel haberi." Ockham, however, tries to prove the contrary, *Opus Nonaginta Dierum*, cap. xxix, "Secundum evangelium servus potest uti pecunia domini sui, quamvis pecuniae eiusdem non habeat dominium et proprietatem." Again, in cap. iiii of the *Op. Non. Di.* Ockham produces a special case to the contrary. If a man is ill, he must try to keep himself alive. If he covers himself with a cloak he may be saving his own life, but he has only the use, not the possession, of a thing consumable by use. Thus, in things consumable by use, if the use consists in a single act, there can be no use separated from possession: but in the case of things consumable "non statim, potest ius utendi a proprietate et dominio separari." See also cap. vii of the same.

77

simplex usus facti: correctly given.

90

re illa uti. John xxii says, "Cum enim uti re aliqua nihil sit aliud proprie, quam fructus rei sive utilitatem aliam in solidum vel in parte recipere, qui ex ea possunt salva rei substantia provenire: restat, quod re illa uti quis nequeat ex qua eius salva substantia nulla sibi provenire potest utilitas, quales res usu consumptibiles esse constat." This justifies the reading *provenire* for the MS. *pronuntiare*.

93

quod actus: the citations from here down to *substantia consumatur* are correct.

95

antequam exerceatur. After "est in rerum natura" John xxii continues: "ex quo sequitur quod haberi non potest. Licet enim et ante actum ipsum quis facultatem habet exercendi: per hoc tamen actus ipse in rerum natura, nisi in potentia, non existit. Cum autem actus est in fieri: nec adhuc, quod ipse actus in rerum natura sit, potest dici, licet pro eo, quod sit in fieri, dici possit." Perhaps at line 106 something has been omitted. Most likely a

103

comma after *est* and *non existit* after *natura* would solve the difficulty. See below at 299.

- 117 *concertationi*. John xxii uses this word in this setting in his 'cum inter nonnullos.' It has the meaning of *certamen*.
- 125 *nisi Christus*. In a lengthy and tortuous passage John xxii strongly condemns the view that Christ and the Apostles adopted absolute poverty: "quod Redemptori nostro praedicto et eius apostolis iis, quae ipsos habuisse scriptura sacra testatur, nequaquam ius ipsis utendi competierit, nec illa vendendi seu donandi ius habuerint, aut ex ipsis alia acquirendi, quae tamen ipsos de praemissis fecisse scriptura sacra testatur, seu ipsos potuisse facere supponit expresse . . . in praemissis non iusta . . . assertionem . . . erroneam fore censendam . . . declaramus."
- 138 *portasse pecuniam*: see 145 below.
- 145 *dictum Christi*. These two passages are to be found near together in the middle of the Bull 'quia quorundam.' They are, "Quodque post reditum pecuniam portaverunt, in plerisque locis evangelica veritas et apostolica dicta testantur. Praeterea Augustinus dicit expresse, quod illud non fuit praeceptum, sed potestas recipiendi necessaria ab eis, quibus praedicabant evangelium, quam servare Apostolis licuit, vel etiam non servare."
- 150 *habuit loculos*. John xxii says of the Bull 'exiit' that evidently Nicholas iii admitted that Christ and the Apostles held property in common by direct ownership—"videtur sensisse quod Christus et Apostoli etiam quoad proprietatem habuerint aliquid in communi." However, Nicholas felt that in touching upon the doctrine that Christ had abdicated all property he ought to forestall the tacit objection that Christ had possessed money bags: Nicholas therefore maintained that Christ (1) showed forth the way of perfection without (2) condemning the path of the weak: thus Christ's possession of the money bags was a concession. John xxii's reply is twofold. (1) If Christ made a habit of not holding property, the exception was where He did hold it. It would be absurd for anyone to discuss this concession to weakness, this departure from a general rule, "nisi intellexisset Christum etiam quoad proprietatem loculos habuisse." Also (2) it would be foolish to maintain that Christ in

possessing the money bags, had in them merely the "simplex usus facti in persona infirmorum," because even the perfect were allowed the *simplex usus facti*. Thus Nicholas' argument allowed no way of escape from the opinion, *Christum loculos habuisse quoad proprietatem*.

altissimae paupertati. For this statement John xxii quotes Gregory ix, lib. v, tit. xxxi, cap. xvi, 'nimis iniqua,' to the effect that those "religiosi, qui elegerunt Christo pauperi ad libitum famulari," were themselves in possession of property held in common. The actual words of John xxii are, "Nec hoc, scilicet in communi et quoad proprietatem aliqua habere, derogat iuxta dictum Gregorii ix praedicti altissimae paupertati, qui in quadam sua decretali dicit expresse, fratres praedicatores et minores in altissima paupertate Christo pauperi famulari; et tamen constat, ipsos praedicatores habere in communi etiam quoad proprietatem aliqua, quod eorum regulae et statui non repugnat."

abdicationem iuris. The Bull says: "Quae quidem assertio continet multa falsa, cum neque Christum expropriationem praedictam omnis iuris in cuiuscumque rei proprietate, et in eius usu in se servasse, nec eam imposuisse apostolis, neque sub voto ab ipsis fuisse receptam, evangelica seu apostolica doceat historia, sed contrarium evidentius manifestat."

ad fidem pertinet. John xxii puts this in the form of a question and adds that there is no article of faith to the effect that Christ and the Apostles had the mere actual use of property, nor yet anything which could be construed as an article of faith, still less do the Scriptures teach it. "Hoc enim in scriptura sacra non poterit, sed contrarium reperiri."

nonnulla quae. "Si enim nobis non licuit contra constitutionem Nicolai iii praedecessoris nostri, in qua se fundant praecipue, aliquid statuere commune: nec sibi licuit contra statuta Gregorii, Innocentii et Alexandri praedictorum statuere aut aliquid declarare: quod tamen ipsum fecisse, secundum eorum assertionem, noscitur evidenter." John xxii continues with the argument that as Nicholas iii expressly said that all further disputes were to be placed in the hands of the Holy See, his action in dealing with the question was orthodox and constitutional.

- 169 *persona imaginaria*. When Nicholas iii granted the use of property to the Friars, he had used the expression "ordo usum habeat." Now John xxii does not merely characterize as an invention their claim that they had only the *simplex usus facti*. He goes further and adds, "Cum enim dicatur in declarationibus supra dictis quod ordo usum rerum habeat praemissarum: ad usum iuris necesse est hoc referri. Facta quidem, quae singulorum sunt, personam veram exigunt et requirunt: ordo autem vera persona non est, sed repraesentata et imaginaria potius est censenda. Quare quae sunt facti sibi vere convenire nequeunt, licet ei possint congruere quae sint iuris." The Order of Friars Minor was a "fictitious person," called into being by the pope, just as the town corporations were created by king or emperor. The middle ages had not reached the stage where they could conceive of a "group person" like the Established Church of Scotland or an American Meat Trust. The fictitious person in mediaeval theory was like a pupil or ward in relation to his guardian: he could hold property in such a way that his property was distinct from the estate of his guardian, but he could not act, think or will for himself.
- 173 *quae sunt facti*. The Order therefore could neither act nor think nor will for itself. Ockham's contention, that if this is true, the church universal itself was in an equally parlous state, is also true. There is every difference between a corporation of all believing Catholics and a collection of all believing Catholics ruled by the pope. In the secular world the emperor and the empire were not interchangeable terms. The empire had legal rights, but nothing more: so too the church. Indeed, doctrine was defined not by the Church but by the pope: and all ecclesiastical activities derived from his jurisdiction. In complaining of this Ockham laments one of the most characteristic features of his own age. As long as the church continued to be a fictitious person, it would remain in perpetual wardship.
- 180 *licet ordini*. The point of view expressed in the two previous notes leads naturally to the conclusion that in so far as the Franciscan Order had rights, those rights were derived from private law. The Order as a whole was not concerned with the

action of the individual members; thus the term *usus* when applied to the Order must in its meaning embrace the whole Order, and nothing less than the whole Order. The *usus iuris* alone can satisfy this requirement, whereas the *actus utendi*, possible only in the individual, is clearly incompatible with the notion of the Order as a "fictitious person." Here the argument of the Spirituals suffers not from a definition of use, but from a definition of the status of their Order.

pertinet Christianos. This is Dist. xcvi, cap. iv, being the letter 206 beginning 'Proposueramus' of Pope Nicholas to the Emperor Michael, in which he calls in question the attendance of emperors at synods, except when they deal with faith, "quae omnium communis est, quae non solum ad clericos, verum etiam ad laicos et ad omnes omnino pertinet Christianos." Gloss (a) on *pertinet* has: "Argu: quod omnes tangit ab omnibus debere tractari et approbari." See also Sext. Decr., lib. v, tit. xii, reg. xxix, "Quod omnes tangit debet ab omnibus approbari." In cap. viii of his *Comp. Err.*, after quoting this passage, Ockham continues, "Igitur ad minores pertinet de causa fidei se intromittere, cum sint de numero Christianorum reputandi:" and declares it the duty of every true believer to correct a pope in heresy: Dist. lxxxvi cap. iii: "Facientis proculdubio culpam habet, qui quod potest corrigere negligit emendare."

ad mulieres. For Ockham's belief in the right of women to 210 attend general councils, see Dial. i, lib. vi, cap. lxxxv; also § 4 of the opening chapter of his *De Imp. et Pont. Potestate*, where he mentions Susanna and Pelagia as witnesses to the truth.

de Avinione. He reached Pisa on 9 June 1328, where the Emperor 215 Lewis was holding a Parliament. By the beginning of 1330 Lewis and his followers were back once more in Bavaria. The *literati*, as Ockham calls the circle of friends to which he belonged, lived in the Minorites' Cloister in Munich till the end of their days, where few, if any, survived the ravages of the Black Death.

Marsilius of Padua and John of Jandun had fled to Lewis in 1326, and had entered Italy with him from Bavaria, whereas Michael had left Avignon for Rome in 1327, and had returned

in answer to a summons from John xxii, who by April 1328 showed Michael that he had only two alternatives, recantation—or imprisonment. The third alternative of flight never occurred to John xxii, and his animosity at their escape knew no bounds.

- 216 *appellationi*. See cap. v of the *Comp. Err.* Michael published this extensive work on 18 Sept. 1328, three months after his arrival at Pisa. It is three times as long as the Q. V. R., and relies for its effect on its exhaustive enquiry into the opinions of the Fathers and law books, rather than on the clarity of a brief and well-ordered discussion. The *Apellatio in forma minori* of 12 Dec. following is much more useful than the former. It would be interesting to know how long it took Michael to compose the longer Appeal. He could hardly have written all of it in three months, even with Ockham and Bonagratia to help him. He gives the impression that he had prepared the Appeal before reaching Pisa in June (*tractatus contra errores Johannis xxii* of 1331); on the other hand he had not broken openly with the pope before 9 April previous. The reply to this *Appellatio* was the Q. V. R. of November 1329, which Michael says he received at Munich.
- 220 *contra fidem*: see Greg. lib. ii, tit. xxvii, cap. i: "Sententia contra leges canonesve prolata, licet non sit appellatione suspensa, non potest tamen subsistere ipso iure."
- 223 *generalis ministri*. According to Michael's version of the story, *Tractatus contra errores Johannis xxii* in Goldast, he was deposed at Paris in June 1328, and his successor Gerard Odo was appointed the Whitsuntide following. Michael, however, persisted in his assumption of the title until his death in 1342.
- 224 *Quia vir reprobus*. In point of fact this was not a Bull, but *libellus*, intended by John xxii to review the entire quarrel and to bring the dispute to an end. Its opening words are, "Ad perpetuam rei memoriam. Quia vir reprobus frater Michael de Cesena, dudum magister generalis ordinis fratrum Minorum, qui . . . in illam prorupit insaniam, quod tres constitutiones nostras videlicet Ad conditorem canonum, Cum inter nonnullos et Quia quorundam, nissus est multipliciter impugnare," etc. Yet we may notice with interest both from Ockham's citation of

this *libellus* and from the Q.V.R. itself, that the pope deals very little with the matter of the 'ad conditorem,' that is, the position of affairs between the Holy See and the Friars, and very much with the opinion of Michael and his friends on the poverty of Christ and the early Christians. It is dated at the end 19 November 1329. The edition quoted in these notes is to be found in Raynaldus, *Cont. ad Bar.* vol. v, pp. 423-449.

haberi non potest. John xxii's argument, where the things used are consumable by use, is as follows. It is impossible to imagine the *ius utendi* without usefulness to the user. No sooner is the *ius utendi* set into operation to produce the usefulness to the user than the user becomes a misuser by destroying the capital value of the thing used. And as it is impossible by definition to use anything and at the same time destroy its capital value, it is clear that the *ius utendi* cannot be exercised in the case of things consumable by use, such as bread, wine, and so forth. 236

Ockham definitely states the contrary view in cap. iii of his *Op. Non. Di.* "Negari ergo non potest, quin habens dominium et proprietatem panis et vini potest uti pane et vino, quare ergo si utitur, aut utitur iniuste pane, aut de gratia vel licentia alterius, aut de iure." It cannot be "iniuste" since he is eating his own bread and drinking his own wine: nor can it be said that he is using the bread and wine by an allowance or permit from someone else. "Si autem detur tertium, quod utatur pane et vino suo de iure, igitur habet ius utendi pane et vino, ergo in rebus usu consumptibilibus potest ius utendi constitui vel haberi."

This is in no sense a sound reply to the pope, who never for a moment allows the legal definition of use to pass out of the line of his vision. Use is the use of other people's property; and the Franciscans were using, or pretending to use, property invested in the Holy See. Ockham's argument, therefore, does not illustrate a special case, but is entirely beside the point.

actus utendi haberi. This point is intimately connected with the material in notes on 103 and 299. John xxii's argument here for the statement that the act of using cannot be had is as follows: 238
"Quod autem ipsum uti ab aliquo haberi nequeat, dicta constitutio sequens Augustini sententiam positam in libro confessio-

num clare probat, quia quod non est, haberi nequaquam potest: actus autem utendi in rerum natura non est, nec antequam quis utatur, nec postquam usus est, nec dum est, nempe integer in actu utendi, id est, successivo." Regarded from one aspect the difficulty is one of time. When a Friar partook of his morning roll and egg, he believed himself to be using without possessing. Putting for a moment his right to use out of the question, we may be assured that he would not proceed to the using without committing an *actus utendi*. When did this *actus utendi* begin? When was it a reality? (At the words 'Benedictus benedicat,' or at the words 'Benedicati benedicamur,' or at the first bite of the roll?) Clearly, the use of such things as are consumable by use is a process which cannot logically be described by the word *actus*.

- 239 *non contingit uti*. The definition of use as the "ius utendi rebus alienis salva rei substantia" makes it inapplicable in cases where the *res alienae* are *res usu consumptibiles*. Thus use which destroys the capital value is rightly termed misuse (*abuti* = *consumptio rerum*).

- 241 *quarta . . . septima*. We now turn to the early Christians and their proprietary rights, including in one note the material belonging to the next four sections.

Michael of Cesena had maintained that the early Christians had no proprietary rights in any temporal possessions. John xxii was prepared to agree, that no Christian of the primitive church held property in *speciali proprietate* at the particular time mentioned in Acts 2 and 4. If, however, Michael believed that these Christians had no proprietary right over property held in common, he was wrong.

The believers at that time held all things in common. But whatever they possessed before their conversion they held by proprietary right, otherwise they could not lawfully have made their property common with the rest. The property, after the conversion, was made common as regards its ownership. It would naturally follow that the *proprietas* or *dominium* is the same before as after the act of making the property common, though John xxii here does not actually say so. However, the

charge of Ockham is fair in essence, for John xxii says clearly, "Constat quod illa quae possidebant ante conversionem erant illis quantum ad dominium propria;" and "sequitur quod fuerunt quoad proprietatem seu dominium inter eos communicata."

Why did the Apostles encourage the selling of property? asks John xxii. They foresaw, he says, that the church was soon to pass to the Gentiles, and that they accordingly kept as little property in Judaea as possible. The Apostles, however, were allowed to keep property in Judaea, if they wished. There was no vow to compel them to give it up. When they did so, they acted of their own free will.

By the word *omnia* may be understood (a) things not consumable by use, such as *domus*, *agri*, etc., which have already been discussed, and (b) things consumable by use, which according to Michael were held in common by the believers, with the result that the believers had the actual use of them. John xxii was prepared to agree, if Michael would admit that the believers had the actual use of things held in common *quoad dominium*. They must, says John, have been held in common "in respect of something." But Michael had asserted that they were common only *quoad simplicem usum facti*.

For two reasons this view of Michael is untenable: (1) it is impossible to use things consumable by use without becoming the owner of the thing used: if the ownership be denied, the loss of the capital value of the thing used immediately robs the word "use" of the meaning given to it by definition: and (2) in the case of things consumable by use, the use of them consists in the act of using, which is clearly the act of consuming, and this act of consuming belongs solely to the consumer, for how may a man share the act of eating and drinking with another? Thus to say that the believers held property in common in respect to their mere actual use of it, is either to contradict oneself, or to admit (what Michael would never have admitted) that they owned what they shared, when they used it. For the opposite view see Ockham, *Op. Non. Di.* cap. v.

dominus . . . rerum assignatarum. John xxii was convinced that 258 the Apostles and the believers were in the fullest sense the

owners of what was divided among them. His argument runs as follows: (1) the word *dividere* = *divisim aliquibus diversas partes rei alicuius dare*: (2) the donors were the owners of the property before it was surrendered to the Apostles: (3) the Apostles were entitled to bestow it upon others. It follows that each man was the owner of the portion assigned to him, otherwise there would be no truth in the remark that no one lacked anything, if after the division he did not possess more than before it.

- 260 *votum vivendi*. On this head John xxii merely observes "Nec votum vivendi sine proprio videtur, quod se extendit ad talia, quibus necessario eget vita humana." The early Christians certainly seem to have abdicated the ownership of their property, because they are said each of them to have regarded nothing as his own, but there is no reason to suppose that they could not be or were not the owners of whatever was divided among them for the necessities of human life.
- 262 *ecce nos*. "Behold, we have left all and followed Thee" (Matth. 19 v. 27). From this saying Michael had deduced that in all things St. Peter had abdicated every kind of ownership: and cites Causa xii, q. i, cap. ii, 'dilectissimis,' in which Clement advances the view that in holding all things in common the early Christian believers had passed beyond the words *meum* and *tuum* derived from the sin of Adam, and were approximating to the status of our first parents during their state of innocence. Augustine, *De Civit. Dei*, lib. xvii, cap. iv, had said that the Apostles had abdicated all ownership. Their example had been followed by the religious Orders, Causa xvi, q. i, cap. xxiv, 'ex auctoritate.'

In reply John xxii sets out to trace the meaning of the phrase "leaving all" on the other occasions when it was used. It was said when Peter, James and John brought their ships to land, Luke 5 v. 11; and Matth. 4 v. 19, where Peter and Andrew were made fishers of men: but in Matth. 8 v. 14 we read, "But when Jesus was come into Peter's house": so, after leaving all, Peter still owned a house. He also owned a sword, Matth. 26 v. 52, and John 18 v. 10. Again, Peter and the Apostles were assumed to have property, which they were permitted to sell, to buy

swords, Luke 22 v. 36. So also the shoes and cloak, Acts 12 v. 8. Instead of immediately abandoning all property St. Matthew solemnized his conversion with a banquet. When the rich young man was instructed to sell all and give to the poor, Peter exclaimed, "Behold, we have left all and followed Thee." He did not say, "Behold, we have sold all and given to the poor." In Mark 1, when James and John left all, was their father Zebedee included? To sum up, John xxii interprets the remark "Ecce nos" as a leaving of all things "quoad curam et affectionem sine domini abdicatione." This is debated at length by Ockham in his *Op. Non. Di.* capp. x, xi, xii and xiii.

apostoli non voverunt. Michael, as we saw above, quoted xii q. i 265 'dilectissimis,' in which we read the supposed epistle of Clement to his brethren living in Jerusalem.

The general outline of Clement's argument was to show that the state of his fellow disciples was comparable to that of our first parents in Paradise: their common use of all things ought to be the rule among all men: and indeed it would have been, had not the sin of our first parents occurred to prevent it: thus it happened that through iniquity one man said 'this is mine' and another 'that is mine,' and thus division was made among men.

Now John xxii points out that the division arose from the claim 'this is mine.' But the division has been made of that thing of which there was previously a holding in common: but the division is (*a*) of things and not (*b*) of a bare actual use of things, as Clement is interpreted to suggest: therefore one man does not claim (*b*) the use of one thing and another the use of another, but one man says (*a*) 'this thing is mine' and another 'that thing is mine.' Thus it seems to John xxii that the division was in respect of ownership and not in respect of use: therefore in the time before the division the holding in common was in respect of ownership and not of use. This disposes of any value Clement may have been to Michael in this connexion.

For the doctrine that the Apostles had actually vowed the renunciation of all ownership, St Augustine, according to John xxii, is much more to blame. It is a case of verbal mis-

understanding. What Augustine said was, "*Ecce nos reliquimus omnia et secuti sumus te,*" and "*hoc votum potentissime voverant*" (this second statement being his own, *De Civit. Dei*, lib. xvii, cap. iv). But John xxii asserts that what was vowed was not that they should abdicate all ownership, but *se Dominum secuturos*, that they would follow the Lord. Nor again does it signify that the first of the two phrases refers to their leaving all things absolutely, for it is clear from the Scriptures that they did own property after their conversion. On "*hoc potentissime*" see *Op. Non. Di.* cap. xvii. Michael says that the vow belonged to both parts, i.e., to "*ecce nos*" and to "*hoc votum,*" though even here he does not produce any citation from scripture to support his theory: see the third epistle of Michael in Goldast called *Litterae Deprecatoriae*, addressed to the Emperor Lewis, cap. vii.

- 268 *quorum non*. This point is by no means clear. It is doubtful if John xxii actually made the statement. The matter may be viewed in two ways. (1) Ockham and Michael were convinced that the Apostles after Pentecost had no ownership of property: John xxii expressly states that they sold property in Judaea: therefore the Apostles sold estates *quorum non habuerant dominium*. (2) The whole idea may be to suggest that whereas the individual owners surrendered the estates to be sold by the Apostles and the Apostles had accordingly the necessary ownership for effecting the sale, the Apostles had not a sufficiently independent *dominium* not to sell.
- 272 *in perfectissimo gradu*. If the phrase "*ecce nos reliquimus omnia*" was vital to Michael's theory, so the material in this note gives the strongest support to the papal argument. It must be admitted, says John xxii, that evangelical poverty reached its climax in Christ and the Apostles, but this does not mean that the use of things consumable by use is separate from ownership. The poverty of Christ did not consist in any abdication of the right to possess, nor in His actual lack of possessions, but in His mind, which had no desire for possessions. This, to John xxii, is the "*paupertas perfectissima,*" and the argument seems unanswerable. If Michael thought that the abdication of all ownership

eliminated care for property, he was mistaken. The master grants a sum of money to his servant. However little the ownership falls upon the servant, that servant is by no means removed from its care. If he were thus freed from the care of money entrusted to him, why should Christ blame the man with one talent for negligence? It so happens that the trustee without ownership is more solicitous about his property than the real owner. Certainly, says John xxii, the Friars Minor were more anxious about the property of which they said they had only the use, than was the Roman Church which had the real ownership. See *Op. Non. Di.* capp. xxii, xxiv and xxx.

Crescite. We have already observed how Michael quoted xii 274 q. i 'dilectissimis' to emphasize his argument that the Apostles were living nearer to the original idea of Paradise. In doing this he stated that the first man Adam, being in a state of innocence, enjoyed the mere actual use of temporal things. The pope however dismisses this notion as absurd. The benediction of Genesis 1 denies the possibility of mere actual use, because our first parents were told to "be fruitful and multiply, and replenish the earth and subdue it and have dominion . . . over every living thing that moveth upon the earth." Having lordship and dominion therefore was one of the first commands.

John xxii then passes to another aspect of the discussion, whether this ownership was held in common or not. He decides in favour of the negative, for lordship was given to Adam before the creation of Eve, for the command "subdue it and have dominion" was given before Adam was put in Paradise, that is, before there was anyone to share it with him. Thus "ex quibus evidenter apparet primos parentes . . . dominium in statu innocentiae habuisse. Et si quaeritur utrum illud dominium proprium fuerit vel commune . . . videtur quod ante formationem Evae dominium temporalium Adae proprium fuit, non commune."

This contention of John xxii would be sound, provided that we accept chapters one and two of Genesis as a continuous narrative without contradiction, but verse 27 of chapter one expressly states, before it gives the command *Crescite*, "male and

female created He them": and if it is true that Eve is not mentioned, it is equally true that Adam is also omitted. Thus it is clear that John xxii's argument would have rested upon firmer support, had it been confined solely to the second chapter. See Ockham, *Op. Non. Di.* capp. xxvi and xxvii.

- 278 *quod modo*. For this section, see the foregoing note. On the question whether lordship granted to Adam was identical with lordship conferred by a temporal ruler, see note on 302.
- 280 *servus actualiter*. In discussing the command in Matth. 5 v. 42 and Luke 6, v. 30. "et volenti mutuare a te, ne avertaris," John xxii points out that to lend to others presupposes possession, for no man could lend, "nisi eius quod mutuaret esset dominus, cum in mutuo a mutuante in eum qui mutuum recipit rei mutuatae sit dominium transferendum."
- 283 *verba Nicolai*. This argument is mainly a repetition of what John xxii said in the 'ad conditorem.' Actual use (*usus facti*) devoid of ownership (*simplex*) can only exist when the things used are consumable by use, otherwise the use would be legal use (*usus iuris*). Nicholas had advised the Franciscans to be *necessario usu facti contenti*. In the case of unreal property this was impossible for two reasons: (1) actual use would, and always does, convert the user into the owner, and (2) if it is hard to conceive of use or usufruct perpetually separated from ownership (the ownership thus becoming useless to the owner), it is certainly impossible to imagine the use in the hands of one man and the ownership in the hands of another in the case of things consumable by use, for, by the destruction or consumption of the capital value of the things used, the ownership not only becomes useless to the owner, but disappears altogether. John xxii therefore states that if Nicholas said the Friars were to have the *simplex usus facti* in things consumable by use, "definivit impossibile." Moreover, in the opinion of John xxii, the universal church did not approve, nor did the council of Vienne confirm, any such opinion as Michael asserted. Yet from this Ockham still dissented, *Op. Non. Di.* cap. xxxii, continuing to believe that Michael's view of the council of Vienne was correct.

ex Dei statuto. The sources of this point are (1) Lev. 27 v. 30, 292 where the Vulgate reads, "Omnes decimae terrae sive de frugibus sive de pomis arborum domini sunt," and (2) Num. 18, v. 23, "Nihil aliud possidebunt, decimarum oblatione contenti, quas in usus eorum et necessaria separavi." From this Michael deduced that "usus in rebus usu consumptibilibus ex Dei statuto habetur." For a discussion on *decimae terrae* see *Op. Non. Di.* cap. xix.

John xxii replies by citing verse 21 of Num. 18, where the Lord says, "Filiis Levi dedi omnes decimas Israel in possessionem pro ministerio, quo servivit mihi in tabernaculo foederis," and John xxii continues, "Ex quibus patet, quod Levitae non tantum usum in decimis, sed et dominium habuerunt." There is no objection to this in the remark that God had separated the tenths for the use of the Levites, because it is one thing to give someone the actual use of a thing, and another to give him a thing necessary for his use. Moreover, John xxii says that he has failed to discover where in the Scriptures any mention of *simplex usus facti* is to be found.

a dominio separari. In all cases of things consumable by use, *uti* 294 in its proper sense does not take place, "consumptio tamen et actus consumendi locum habet." And even if such a use were possible, it would not be *simplex* or *a dominio separatus*. It would be logically impossible to imagine the food eaten by a Friar still the property of someone else.

non concessit. Once more John xxii attacks the view that Nicholas 295 granted the *simplex usus facti in rebus usu consumptibilibus*, and quotes Nicholas to this effect, "In his, quae ad victum et vestitum et divinum cultum ac sapientiale studium pertinent, necessarium usum rerum fratribus esse concessum." There is no mention of *simplex usus facti*. If the *necessarium usum rerum* means anything, it means the *ius utendi*, which was certainly not what the Spiritual Franciscans wished it to remain.

On the other hand, there are countless cases in the Bible and Roman and canon law where the terms *usus* and *abusus* are employed indiscriminately. "Use a little wine" is a case in point, where *usus* = *consumptio* = *abusus*. Nor again is there anything

morally wrong suggested by the term *abusus*. In fine the writer of the canon 'exiit' did not intend to grant anything so impossible and self-contradictory as simple actual use in things consumable by use. See also passages at 99, 101, and 240.

Ockham, however, evades this, *Op. Non. Di.* cap. iii, where he says that Scripture does not say "abutere vino." Again in cap. xliii, in citing this passage from the Q.V.R., Ockham argues roughly as follows: "when the pope points out that in the phrase 'utere vino' the word *usus* is used *improprie*, let us believe rather that the language of law and medicine is wrong. If the vocabulary of law and medicine does not agree with that of Scripture, are we promptly to admit that Scripture must be wrong? The word *usus* in Scripture is equivocal and covers more than one meaning." Yet it must be clear that any meaning of the word *usus* other than *uti rebus alienis* is inadmissible in an argument which deals with property vested in the church, and used by the Franciscans.

- 299 *actus successivus*. The connexion between this general statement and the narrower question of poverty appears at lines 103-6. In the 'ad conditorem' (and afterwards in the Q.V.R.) John xxii undertakes to show that the claim of the Franciscans to have the simple actual use of things consumable by use is impossible from every known standpoint—exegesis, common sense, law, logic, history, economics, and physics. This last needs some explanation, "That there is no successive act in the world of nature." Our equation will work out as follows:—simple actual use = the act of using = the act of consuming = an act of some sort and as such = something instantaneous. We must attempt to get a little closer to the meaning of the argument by using a modern example. An act is instantaneous. X hits Y. Y has an intellectual conception of the blow which he can explain in only two ways—by thinking forward or by thinking backward—by anticipation moving towards and including realization, which we will call the line a—b: or by realization moving towards reflexion, which we will call the line b—c. Thus Y's attitude is

anticipating . . . a—b] [b—c . . . reflecting.

But of the blow in itself Y knows nothing, because it was instantaneous, for an act in time is the equivalent of a point in space. Thus the blow—the act of X in striking Y—is either b the point at the end of the line a—b, or b the point at the beginning of the line b—c. But b itself in itself is outside the *rerum natura* of the man Y. Thus Y cannot be said to have b, any more than Burns could be said to have the snowflake in the river, “a moment white— then melts for ever.” And so the Franciscans cannot be said to *have* the act of using: consequently they cannot be said to *have* simple actual use.

in regum legibus. The text as it stands has at first sight every appearance of error. In fact it is doubtful if John xxii actually made the remark, but when more carefully examined it may be accepted as a part of his argument. Ockham in cap. lxxxviii of his *Op. Non. Di.* speaks of four errors of John xxii: “Quorum primus est quod omne ius humanum quo temporalium dominia possidebantur in regum legibus continetur, secundum quod reges contra publicas alias potestates et rectores alios distinguuntur. Quod enim hoc dicat, patet expresse: cum per hoc, quod ante diluvium et post diluvium in populo Israelitico non fuerunt tales reges, probare nititur: quod illa quae tunc habebant non possidebant iure humano, sed divino. Sed quod hoc sit erroneum patet aperte, quia illa sola dominia fuerunt a iure divino et non ab humano, quae ex dono Dei speciali . . . manifesta possessa fuerunt: sicut patet de spoliis, quae de Aegyptiis tulerunt Hebraei, et de multis aliis, de quibus in scriptura divina fit mentio. Sed manifestum est quod Hebraei et alii multorum dominia iuste possederunt: quae tamen ex dono Dei per specialem revelationem manifesto minime possederunt” (Abraham, who bought a cave, and so forth), “ergo ipsi talia possederunt iure humano: et tamen illa iura non continebantur in legibus regum.” If, says Ockham, John xxii meant to suggest that “omnia dominia de quibus in scripturis sacris fit mentio fuerunt a iure divino,” he was wrong, for the Roman Empire, which is mentioned in the Bible, did not derive its standing from Divine law.

Michael also had said that ownership came in with human

law, and quotes Augustine's famous saying, well known as Dist. viii cap. i 'quo iure,' where he maintains (1) that it is by virtue of human law that a man may say "this house is mine, this slave is mine"; and (2) that divine law is what is given in Holy Scripture and human law (*ius humanum*) what is found in the law of kings (*in legibus regum*). Michael also cites Clement in xii q.i cap. 'dilectissimis' to the effect that through iniquity one man said "this is mine" and another "that is mine," since a common use of all things in this world ought to be open to all men.

John xxii's reply is as follows. In the Scriptures, before the laws of kings, even before the kings themselves existed, there were some things which were the possession of someone. Thus by virtue of divine law one could call a thing one's own. So much for the major premise, now for the minor premise.

In his state of innocence Adam, before the formation of Eve (see 274-279), alone had the ownership and dominion over all temporal things: he could not have had the ownership or dominion in common at that time, because he was alone, and a possessing in common naturally presupposes more than one person. By citing Ecclesiasticus 17, v 4. and Dionysius, *De divinis nominibus* cap. xii, (version by John Scotus, Migne, vol. cxxii, p. 1168, "propter quod et dominatus a Domino, et dominabile, et dominari") John xxii illustrates his belief that Adam, who "dominatus est bestiarum et volatiliū," was their *dominus* and had the *dominium* of them. (No loophole of escape for Michael here.)

The statement that ownership was introduced by the law of kings is further disproved by John xxii, this time with considerable sarcasm. (1) Gen. 3, v. 19, "In the sweat of thy brow shalt thou eat thy (?) bread"—so that Adam could call the bread his own; and still no kings, nor any other human beings except our first parents. (2) Gen. 4, v. 4, Abel and "his flock," distinct presumably from the possessions of Cain. (3) Gen. 9, v. 20, Noah and his vineyard—still no kings. (4) Gen. 12, v. 7, Abraham and Gen. 26, v. 3, Isaac promised by the Lord that He would give the land to them and their seed. As He did so they possessed the

land "non ex iure regum, sed ex collatione Dei." (5) Num. 31, v. 11. (6) Num. 33, v. 53. Josh, 13, passim, and so forth.

Thus the origin of the right of possession, according to John xxii, comes not from human law, but from divine law, for God as the Creator had made the first gift of dominion to Adam. Ownership was not derived from any primaeval natural law which is common to all animals, for the force of that law does not affect any definite statute, but gives a general inclination towards certain acts made in common by all the animals. Nor again can ownership be derived from the right of nations, nor yet from the law of kings and emperors, but from God alone, Who bestowed it upon Adam before the formation of Eve and made him the first owner.

Nonetheless many ways of obtaining ownership have been introduced by civil law, as also have the methods of protecting one's interests and of supporting one's claim. It is clear therefore that Augustine's remarks in 'quo iure' (see above) may be understood to mean that no one could put forward his claim in the law courts, were it not for the law of kings, though he was quite aware that ownership was derived from divine law. See Causa xxiii, q. vii, cap. i, *Epistola ad Vincentium*: Migne, vol. xxxiii, p. 345.

The real contribution of human law is the *formulae actionum*; it has laid down the lines upon which ownership shall be undertaken and upon which claims may be vindicated.

formulae actionum. See note above. It will be noticed that no 306
reference is made to the *nudum dominium*. For this see 327 below.
vicissima quarta est quod, continuing probably, "Christus in 308
quantum homo subsistens in divino supposito fuerit dominus
et rex factus." This in the Q.V.R. follows on immediately after
the discussion on *formulae actionum* above.

As this conjecture may easily be erroneous, it will be unnecessary to give more than a brief outline which John xxii accords to this view. It is based on the question "Utrum Christus alicuius rei temporalis dominium habuerit." John's belief that Christ had this temporal dominion (though he did not use it) is supported by the following passages in Scripture: Is. 33, v. 22,

Jer. 23 v. 5, Dan. 2, v. 44, Zach. 9, v. 9, Ps. 45, Song of S. 3, v. 11, Matt. 2, v. 2, Luke 2, v. 11, John 1, v. 49, and 18, v. 36, Acts 2, v. 36.

The force of *omnium* in line 311 and of *universale* in 315 finds support in Isaiah 16, v. 1, Mich. 5, v. 2, Mal. 3, v. 1, John 13, v. 13, Matt. 21, v. 5, Rev. 19, v. 16.

- 309 *vicensima quinta . . . septima*. The next three errors are contained in a single passage: "Praemissa autem, scilicet regnum et universale dominium habuit Christus inquantum Deus ab aeterno eo ipso, quod Deus Pater genuit eum: et inquantum homo ex tempore, scilicet ab instanti conceptionis suae ex Dei datione, ut patet ex praedictis: et nihilominus habuit dominium rerum aliquarum temporalium non ab instanti suae conceptionis, sed postea successive modis aliis, utpote ex collatione fidelium vel emptione adquisitas."

John xxii was of opinion that the Apostles were best likely to know whether Christ possessed sandals, food and so forth. "Certe narrant ipsum aliqua habuisse, sed pauca." Mark 1, v. 7: 14, v. 22; Matt. 3, v. 11: 17, v. 2: 26, v. 26: 27, v. 35; Luke 22, v. 19 John 13, v. 29: 19, v. 24. Notice the argument of Ockham, *Op. Non. Di*, cap. xciv, "as on the one hand Christ was the example of His disciples and followers, so also on the other hand He had forbidden the use of *calceamenta*. Therefore He did not use them Himself." But what of John the Baptist's description of Him (Mark 1, v. 7)?

- 323 *renuntiare non potuit*. John xxii is content that Christ (1) did not, and (2) could not, abdicate His kingdom and dominion. On the first head he says of Michael, "Et si velit dicere, quod illi regno et dominio renuntiavit expresse, ostendat illud si sciat." Rather is it clear from v. 15 of John 12 and v. 5 of Matthew 21 that He had not renounced it. For the second, the words of Daniel (2, v. 44) show that He could not have renounced it.

- 324 *undetricesima . . . tricesima prima*. These three sections are based upon the same passage in the Q. V. R. It had been remarked that Christ was needy and poor. True, but what made Him so? It was not the *carentia dominii*, the absence of ownership, but the *carentia perceptionis fructus et obventionis rerum quarum dominus erat*,

the fact that He was not in actual possession of the things which He had a right to own and to which He was heir, Gal. 4, (v. i, "the heir, so long as he is a child, differeth nothing from a servant, though he be lord of all"): for the mere ownership separated for ever from all receipt of advantage does not make its possessor rich, since such an ownership must be regarded as useless. The king of France, if he were to absent himself from his kingdom without actually abdicating, might return unknown to his realm and be actually poor, though legally lord, provided that he did not claim the kingdom for himself and was content to live on the proceeds of charity.

reliquerunt dominium. The disciples, says John xxii, were called 335
discipleship, not to the renunciation of ownership. Nothing is read about such renunciation as a part of discipleship. They left their nets for a time, not for ever: they left their houses, but not for ever. Matthew's conversion was the occasion of a banquet in his house. An examination of Christ's attitude leaves the same impression. The fact that Christ made certain stipulations about what the twelve were to take with them on their missionary journey argues in favour of their freedom previously to possess whatever they wished. See Ockham, *Op. Non. Di.* cap. xcvi.

nullam aliam legem. On this John xxii remarks, "Nec repperimus 336
quod Iesus Dominus noster aliam legem vivendi discipulis dederit et aliam apostolis suis," and after citing the epistle of Clement, 'dilectissimis' to the same effect, adds that Christ, Who chose the Apostles from the disciples, does not seem to have imposed on them "aliam vitam quam prius habuerunt." Moreover, the disciples were often wealthy. (a) Joseph of Arimathea (John 19, v. 38 and Matth. 27, v. 57), (b) Simon the Leper and his house in Bethany (Matth. 26, v. 6), (c) Lazarus, Martha and Mary and the *magna cena* (John 11 and 12), (d) Dorcas (Acts 9, v. 36).

This line of argument would never satisfy a Franciscan, for where would his superiority appear, of what use would his poverty be, real or imaginary, if there were no "higher life" to aim at? The Franciscans demanded a *Via Perfectionis* at all costs. Michael's second epistle in Goldast "ad omnes Fratres" tells us

that Christ came to save men in two ways, (1) "per fidem rectam et mandatorum legis observantiam"; this is for ordinary people: and (2) "in consiliis evangelicis vitam ipsius Domini nostri et apostolorum eius insequi perfecte," that is "vivendo in obedientia, sine proprio et in castitate." These three counsels of perfection were equal in value. Michael quotes the example of the heretic Jovinianus, who said that there was no difference between moderate conjugality and chastity. Ockham, cap. c of his *Op. Non. Di.* quotes Matth. 19, v. 12, "Sunt eunuchi qui castraverunt se ipsos" as an additional proof that the perfect were not expected to marry. Could the Franciscans therefore be expected to take their poverty lightly, since it was certain that Christ by his teaching and example showed them the "Via Perfectionis"?

- 340 *praeceptum datum*. In the two passages in Matth. 10, v. 9 and Mark 6 v. 8, the Apostles were to take "nothing for their journey." John xxii is of opinion, "quod pro tempore viae praedictae tantum praedicta eis fuerint interdicta," and quotes Augustine, in *lib. ii de concord. Evangel.* (Migne, vol. xxxiv, p. 1113) to the effect that this method of travelling was not so much a precept as a power to receive necessities from those to whom the Gospel was preached. Otherwise St Paul's whole attitude was wrong: 1 Cor. 9 passim: Phil. 4, v. 10: 1 Thes. 2, v. 9: Acts 20, v. 34. But John xxii's strongest point is that in Luke 22, v. 35. Christ is hardly likely to have asked the twelve, "What lacked ye?" if the force of His command had been intended to cover their whole life.

Ockham, on the other hand, believed in the completeness and permanence of Christ's injunctions against wealth, cap. xcvi of his *Op. Non. Di.* On Matth. 6, v. 19, "Nolite thesaurizare vobis thesauros," he says: "Si enim ideo thesauri sunt in terra minime congregandi, quia aerugo et tinea demolitur, etc. . . . videtur quod omnia quae in terra possunt auferri et non sunt necessaria, nullatenus sint congreganda. Omnis igitur superfluitas temporalium in verbis praedictis, Apostolis extitit interdicta. Omne autem dominium seu proprietas temporalium debet inter superflua reputari, cum sine proprietate seu dominio contingat vitam

sustentare humanam et officia ecclesiastica exercere, ergo in verbis praemissis Salvator sub praecepto vel consilio omne dominium seu proprietatem temporalium interdixit."

panes pisces pecuniam. John xxii had no doubt that the twelve 344 apostles had possessions after their return from preaching, though their possessions were not numerous or valuable. In Mark, 6, v. 37 and Luke 9, v. 13, Christ turns to them, evidently expecting them to be able to provide for the feeding of the crowd. Upon whatever terms the twelve owned the five loaves and two fishes, it was they who suggested buying more. Again in John 4, v. 8, Christ is represented as having sent the Apostles to buy food, while he sat at Jacob's Well. Possession is tacitly assumed in Luke 22, v. 36, "He that hath no sword, let him sell his garment and buy one": and Peter had obtained one, for he was told to sheathe it, John 18, v. 11.

Tricesima sexta . . . undequadragesima. These four sections can 347 conveniently be taken together.

After discussing whether Christians possessed property after the Crucifixion, and whether the converted Gentiles also retained their ownership of property after their conversion, and deciding in the affirmative, John xxii then proceeds to the question whether the Apostles were allowed to litigate in the law courts. He first refutes the argument of Michael, who cited the phrase "Behold, we have left all" (Matth. 19, v. 27), as not being to the point. Michael had maintained that the Apostles, in leaving all, had abandoned also the right to sue in the courts: see Paul, 1 Cor. 6. Thus Christ had given His command to the perfect; Matth. 5 and Luke 6.

John xxii disposes of Michael in the following way. It is clear that Michael had conceived of the perfect man as one who had already abdicated all ownership in property, keeping only the *simplex usus facti*: and Ockham's opinion was based on that of Michael. In cap. cix of the *Op. Non. Di.* Ockham states that there were two ways of defending property, by suing in the courts and by violence: "sed carentes proprietate non debent res suas defendere in iudicio contendendo: cum absque omni iure agendi et defendendi nullus valeat in iudicio litigare." This

would be true of those who had abandoned proprietary rights, but (as John xxii goes on to say) Christ, in remarking "qui vult tecum," was not addressing those who had abandoned all proprietary right, otherwise, how could they proceed on occasion to give and to lend? Moreover, it was false to suppose that this precept was given solely to the Apostles, for at the time of the Sermon on the Mount the twelve had not been chosen. (Ockham, cap. ci of the *Op. Non. Di.* says that Luke 6 proves that the Apostles had been chosen).

It is therefore clear to John xxii that the precept of giving and lending was made to perfect and imperfect alike, because it makes its appearance in the Sermon on the Mount, a sermon addressed to perfect and imperfect, as is shown by the parable of the wise man who built on rock and the fool who built on sand. How otherwise could one explain the fact that rewards and punishments were promised to those who kept or neglected His words, if those words had not been addressed to perfect and imperfect alike?

Again, Michael had wrongly understood the meaning of 1 Cor. 6. St. Paul was not writing to men who, having renounced all temporal wealth, were contented solely with a mere actual use. It is clear from the last chapter of 1 Cor. that the Corinthians made a money collection among themselves for the Saints in Jerusalem. From the method of collecting it is plain that the converted Gentiles had not put their temporal resources into a common fund. One might add to John xxii's argument the suggestion that 1 Cor. 16 proves the collapse of the system at Jerusalem so loudly praised by the Spiritual Franciscans.

In conclusion, the converted Gentiles retained their property in the fullest sense and could maintain their rights in courts of law.

Upon this latter point John xxii was certain that St Paul was criticising rather the method and intentions of the Corinthians. He does not say to them "Why do ye not take wrong?" but "Why do ye not rather take wrong?" suggesting the room for Christian charity. Lawsuits before the faithful cannot be condemned when St Paul asks, "Dare any of you having a matter

against another go to law before the unjust and not before the Saints?" Nor again do the words "Set them to judge who are least esteemed in the church," condemn suits. St. Paul was complaining rather of the method of brother going "to law with brother and that before the unbelievers." The real reason why going to law was "utterly a fault" among the Corinthians, was their intention to "do wrong and defraud and that your brethren." This idea is exactly parallel to his remark in v. 12, "All things are lawful to me, but all things are not expedient." There were exceptions, John xxii continues, even in the life of Christ and the Apostles to the rigid adherence to these precepts, for we read in John 18, v. 23, that when the servant of the high priest smote Our Lord, He, instead of turning the other cheek, answered him, "If I have spoken evil, bear witness of the evil, but if well, whysmittest thou me?" So also St Paul in Acts 22, v. 25 and 23, v. 17 to the end, where he is shown as seeking protection from the fury of the Jews by persuading the chief captain to have him sent to Felix the governor, at whose hands he hoped to have a fair trial.

voluit = was willing.

clavis scientiae. The discussion upon the keys of knowledge as it appears in the Q.V.R. is not at first sight illuminating. It is more fully dealt with in the beginning part of the 'quia quorundam.' By what right, asked the Spiritual Franciscans in effect, after the publication of the 'ad conditorem,' by what authority did John xxii rescind the decree of Nicholas iii? John replies, "Illud, inquiunt, quod per clavem scientiae in fide ac moribus semel definierunt Romani Pontifices, adeo immutabile perseverat, quod illud successori revocare non licet in dubium, nec contrarium affirmare, licet de eis quae per clavem potestatis ordinauerint, asserant secus esse": and clearly calls the whole matter in question.

It may be well to go back to Peter Lombard, *Sent. lib. iv, distt. xviii and xix*, where it seems generally agreed that the priest after ordination used two keys, one the *scientia dinoscendi*, and the other the *potestas ligandi*. But the former was merely the *scientia dinoscendi inter lepram et lepram*, not any knowledge which

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would enable him to define doctrine: and anyone might possess it. Every priest inherited the latter, but it gave him no right to define doctrine. The idea, therefore, that Nicholas had defined faith and morals *per clavem scientiae* was wrong. It was an error, says John xxii, to confuse the *claves regni caelorum* with the *generalis potestas attributa Beato Petro*.

In the Q.V.R., however, John xxii accuses Michael of confusion with regard to these keys. Apparently Michael had denied that the key of knowledge was a key of the church, since no express mention of it was made when Christ promised the keys to St. Peter. To prove this Michael had pointed out that in Luke 11 (v. 52) Our Lord had said, "Woe unto you lawyers," from which it was clear to Michael that the key of knowledge was distinct from the key of power.

John xxii's immediate reply is that the remark in Luke 11 was made to Scribes and Pharisees. How could they be blamed for not having a key which had never been given them? Christ was not there referring to any key of the church. The key he meant was humility, by which the door was thrown open to a correct understanding of the Scriptures: see also Isaiah, 7, v. 9, "Si non credideritis, non permanebitis": or it might be faith, such as Peter had shown in his confession that Christ was the Messiah: and that faith he showed before Christ promised him the keys.

Ockham's contention therefore is correct, that this clause *quadragesima* represents the pope's opinion, but it must be under the proviso (1) that if the key of knowledge was *nec distincta a clave potentiae*, it must be merely the *scientia dinoscendi inter lepram et lepram* used for the sacrament and confession: and (2) if the key of knowledge was *nec eadem [atque claves regni caelorum]*, it must be the *humilitas* and *fides* of a true believer, which was not a direct result of ordination. But the main point of interest is still in the dark. By what authority did John xxii alter the regime established by Nicholas? If in his capacity as pope, upon what foundation did the papal power reside, other than the *claves regni* passages in Matthew and Luke? The difficulty doubtless arises from the fact that these passages do a double duty, for the

same words establish the primacy of St. Peter, and the jurisdiction of the priesthood.

revocare. In the Q.V.R. at the end John xxii cites his previous Bull 'quia quorundam.' The passage quoted runs on from the words as they are to be found at lines 159-161. Where do they, the Spirituals, find the expression that, in what they had, Christ and the Apostles possessed only the mere actual use? It is no article of faith, either actually or by implication, nor is it contrary to Scripture to believe otherwise. Rather is it clear that the Scriptures condemn their opinion. Thus as the opinion of the Spirituals has nothing to do with faith and morals, the pope may rescind the act of Nicholas his predecessor, always remembering that Nicholas himself in producing the Bull 'exiit' acted contrary to the pronounced opinions of his predecessors, Gregory, Innocent and Alexander. 371

Added to this is the statement in the 'quia quorundam' (see notes on 162 and 283) that Nicholas did not mean what the Spirituals said he did. So the pope could reply to Ockham to this effect, that he was not guilty, or if so, guilty in the good company of his predecessors.

plures assertiones. The three most convenient sources for these sermons are (a) cap. vii of the *Comp. Err.*: (b) the Chronicle of Nicholas Minorita in Müller pp. 87-89 and (c) the end of the third epistle of Michael of Cesena in Goldast. The first is said to have been preached on the third Sunday in Advent 1331 (not 1329); text "Gaudete in Domino semper" (ep. to Phil. 4, v. 4). The second: no date, but preached publicly on the victory of the king of Castile over the Saracens: text, "Iusti tulerunt spolia impiorum" (Wis. 10 v. 19). The third and fourth: sermon preached on the Feast of All Saints 1331: text, "Mementote operum patrum vestrorum" (1 Mac. 2, v. 51): also on the Vigil of Epiphany, 1332: text, "Tolle puerum et matrem eius" (Matth. 2, v. 13): see cap. vii of the *Comp. Err.* The fifth and sixth were based according to Ockham on the sermon "Tolle puerum," as above. See also pp. 558-560 in Scholz, *Unbekannte Kirch. Str.* 374

- 376 *tres personae*. Ockham quotes John xxii as saying, "Beati in patria videbunt magnam novitatem, scilicet Deum trinum et unum: et est mirabilis vanitas credere tres personas adinvicem non distinctas. Nam filius non distinguitur a patre, nec spiritus sanctus a patre et filio qui procedit ab eis: et tamen tres personae sunt; et hi tres unum sunt." In reply Ockham quotes the Athanasian creed and *extra*, de summa trinitate, 'damnamus' which says, "Nos sacro approbante concilio credimus et confitemur . . . quod distinctiones sunt in personis, et unitas in unitate:" (*unitas in natura*, in Greg. lib. i, tit. i, cap. ii).
- 378 *Deus nihil potest*. This passage as it stands is difficult enough to solve, but if we take the clause *quod contradictionem includit* as a dividing line, we shall have three sections, in the following way: the second heresy is (1) that God can do nothing by His absolute power, which He does not do by His ordained power, and (2) (this is a contradiction) that God could act otherwise than He does, and (3) all things happen by necessity—a statement that contradicts the idea that there has been anything that God has not ordained." John xxii had apparently stated "quod Deus potentia sua absoluta non posset salvare hominem sine sacramento baptismi et quod Deus non posset de potentia sua absoluta facere quod res alio modo evenirent, quam eveniant"; which, in the opinion of Michael, did away with free will, merit, grace, and so forth. However, John xxii is convinced that the *potentia absoluta* and the *potentia ordinata* are identical, "et non distinguuntur ad invicem, nisi solo nomine, sicut Simon et Petrus, qui idem homo utroque nomine appellatur."
- 384 *animae sanctorum*. In the sermon on All Saints' Day 1331 John xxii is represented by Ockham as saying: "Up to the Day of Judgment the souls of the righteous will remain beneath the altar, that is, under the protection and consolation of the humanity of Christ. But when Christ has come to deliver judgment they will be above the altar, that is, above the humanity of Christ. Wherefore, after the Day of Judgment, the saints will see and contemplate not only the humanity of Christ, but also His divinity, as it is in itself: for they will see the Father, the Son and the Holy Spirit:" etc.

That John xxii had voiced such opinions is hardly a matter of doubt. Ockham mentions that John xxii had collected his material into a tract and that he had seen and read it: so that John xxii was evidently in earnest.

The effect of this sermon was an explosion. The king of France, the University of Paris and many distinguished scholars forced John xxii to withdraw. The reason for their action is still clearer in the sermon "Tolle puerum" of 1332, in which John xxii states that even the B.V.M. must wait till the Day of Judgment before she may see God and rejoice in the Beatific Vision. Ockham devoted the whole of the second part of his Dialogue, begun early in 1334, to a refutation of John xxii's theological errors, and describes the pope's withdrawal on this question as "ficta et frivola." The fact of John xxii's final recantation on 3 December 1334, the day before his death, has not passed without challenge, but it is certain that suspicion still lingered. The matter was sufficiently serious to cause alarm, for the establishment of John xxii's opinion would have been fatal to the Invocation of Saints and to the Treasury of Merits. One would not have expected these implications to have escaped a pope with such a reputation for avarice.

animae reprobtorum. A logical corollary to *animae sanctorum*. 387
"Israel." the pope is represented as saying, "means by interpretation 'seeing God' or a 'vision of God.' . . . As God is not more prone to condemn than to recompense or reward, He will not punish the bad before He rewards the good. But it has been said that the righteous will not enter into eternal life before the Day of Judgment, so therefore sinners will not enter into eternal punishment in Hell, where there is weeping and gnashing of teeth, before the Day of Judgment."

In reply to this Ockham quotes Job 21, v. 32, and the story of Lazarus and Dives, Luke 16, v. 19, and Gregory, who in lib. iv of his *Dialogues*, taught that the fires of Hell would follow immediately upon the decease of the sinner (Migne, vol. lxxvii, p. 365).

daimones. "For the damned (that is, devils) could not tempt us if 389
they were imprisoned in Hell, and so we cannot say that they

are in Hell, but that they are in that shadowy region of the air, from which a way lies open to them for tempting us. Thus the devils seem to be not in the lower regions, but above them. But the last Judgement will occur at that time when the devils themselves are imprisoned in Hell. . . . What can be clearer, that the devils are not in Hell, than the passage which says, 'Art thou come hither to torment us before the time?' (Matth. 8, v. 29). In reply to this Ockham cites the passage at 2 Peter 2, v. 4, which runs as follows: v. 4, "For if God spared not the Angels that sinned, but cast them down to hell and delivered them into chains of darkness, to be reserved unto judgment. . . . v. 9 The Lord knoweth how . . . to reserve the unjust unto the day of judgment to be punished."

- 391 *rex post diem*. John xxii's argument is given by Ockham as follows: "Then shall enter all the elect with Christ in glory, when Christ shall say 'Come ye blessed of my Father, possess ye the Kingdom prepared for you from the beginning of the world.' And the evil ones shall enter upon eternal punishment when it shall be told them 'Enter, ye cursed ones, into the eternal fire which has been prepared by Satan and his angels.' Then (as the Apostle says) Christ shall surrender the kingdom to God the Father, and Christ himself at last will not reign in His kingdom, that is, in the kingdom of God." All this is sheer heresy, says Ockham: Luke 1, v. 33 and Daniel 7, v. 14.
- 423 *solum deicolam*. It was one of Ockham's peculiar convictions that right opinion in matters of religion was not the prerogative of the many, for it had so often been preserved by a single individual, as for instance Tobit and Athanasius. See his *De Imp. et Pont. Potestate* cap. i, where he says: "quamobrem allegationem multorum, quod non deberem multitudini contraire, haeresim sapere reputo manifestam."
- 436 *improperiis: improperium—dedecus, convitium, iniuria*, etc.
- 443 *idiotae*. At the very end of cap. lxxvi of the *Op. Non. Di.* Ockham calls John xxii "iste idiota."
- 446 *Perusinum*: Whitsunday 1322. When several of the cardinals requested Michael of Cesena as minister general to examine the question of evangelical poverty at the next general chapter at

Perugia, they received from Michael a report to the effect that to say that Christ and the Apostles held no property either separately or in common was not only not heretical, but sane and catholic. Michael quoted the Bull 'exiit' of Nicholas iii, in which Nicholas said: "Dicimus quod abdicatio proprietatis omnium rerum tam in speciali quam in communi propter Deum meritoria est," an opinion approved by the whole church at the Council of Vienne and by John xxii himself in his Bull 'quorundam exigit': and that what has once been approved by the Apostolic See should remain in force: Dist. xix cap. i. Thus from Whitsunday 1322 the die was cast. It is a remarkable fact that Michael could claim that the chapter at Perugia, after investigating the matter with mature deliberation, had reached its conclusion *concorditer et unanimiter*.

In this letter of Whitsunday 1322 Michael merely represented the opinion of the chapter. He was not attacked by the pope on personal grounds till the beginning of 1328, when his action was condemned at Avignon as contumacious, in that he had presumed to define doctrine without authority.

The general chapter had forced John's hand. Six months later the Bull 'ad conditorem' undid the work of Nicholas iii by making the Franciscan Order the real and acknowledged possessor of all property previously invested in the Holy See. *brigam* = *iurgium, rixa, or partes, factio*: Du Cange. Ockham uses 467 the expression *brigosus causidicus* in his tract against Benedict xii: see Scholz, ii, 405.

Sanctorum regulas . . . intelligo. This is Ockham at his best. His 468 failure to convert the authorities is throwing him back upon his own resources and leading him towards the independent position of individual interpretation. In *Comp. Err.* cap. viii he shows that if every matter of faith must come before the pope for his examination and approval, and that no opinion may be accepted until that approval has been granted, no Friar or Christian man may discuss the question, "Est Christiana fides vera, vel non?" without first receiving a pontifical judgment on the matter. "Quod non est aliud, quam fidem nostram totaliter in arbitrio hominis constituere, et quid credere debeamus ab eo

expectare:" a line of argument quite contrary to St. Paul's remark in 1 Cor. 2, v. 5, "That your faith should not stand in the wisdom of men, but in the power of God."

- 472 *nimis emungere*, possibly a common expression. See Böhmer, *Fontes*, iv, p. 30, where we read in the Chronicle of Henricus de Diessenhoven, "Qui nimis emungit, elicit sanguinem." Henricus points out that the interdict of John xxii was carried out with even greater severity by Benedict xii.
- 473 *mortalis*. There may have been many occasions when the advanced age of John xxii gave rise to the expectation that he would not last much longer, and that the Spirituals would live happily ever after. One of them we meet in Wadding, *Ann. Min.* vol. iii, p. 362, where Bertrand, acting on papal instructions, dismisses Michael of Cesena from his position of minister general, "attamen spes erat, si pontifex grandaevis obiret, suo loco restituendum." Yet many years were to pass before he died on 4 December, 1334, at the age of ninety, six months after the publication of this *epistola*. The hope that peace would ensue after his death was destroyed by his successor Benedict, who persecuted Lewis and the *literati* even more bitterly than John xxii.

ADDITIONAL NOTE

The passages of the text published in Müller's article, *Einige Aktenstücke und Schriften* etc., are as follows:—(a) 1—*est* in line 29, (b) *haec* in 106—*nonnullos* in 116, (c) *animadvertens* in 187—*videtur* in 234, (d) *post* in 373—end. Several variations are worth mentioning:—3 Assisim 13 Avenione 18 superiore 20 imprimis videlicet 24 omits et 187 animadvertens 189 aspersas 194-5 imprimis diffinitive 206 *passage in brackets thus: (distinctione . . . susceperunt)*—ut 208; ex 214 heresumque 217-8 interlecte 395-6 me averti 405 iugeri 424 Cuius modo 430 aut quod 437 comminationibus 439 ergo sic 457 fratres *illi (conj.)* 460 *new paragraph with De.*

As a rule M. Baudry has followed Müller in these passages: he differs from both Müller and this text, thus:—45 Nicholai (i)

46 sunt (*for* fuerunt) 48 sunt 63 exponit 91 fructus 101 remaneat
 121 affirmabunt 122 determinat 148 predicarent 176 nequirent
 177 valeret 182 sec. eum quod 184 aliquid 187 A[d]vertens
 194-5 imprimis 196 Propter 207 ub(b)inam ub(b)i 223 prefati
 242 Actorum iii 247 quarto c. et Apostolis 262 *omits* ecclesiae
 263 reliquerint 274 benedictio 278 quo modo 308 *no. 24 missing*
 334 xxxiiii est 350 Marci 354 possint 359 Marci 359 *omits* ipsis
 362 litia 383 fiat 383 non fuit 449 timore (*conj.*)

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271.31C

Ockham, William

Oc 4 B

Epistola ad fratres

271.31C

Oc 4 B

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